

The Gazette



of India

PUBLISHED BY AUTHORITY

No. 39] NEW DELHI, SATURDAY, SEPTEMBER 24, 1960/ASVINA 2, 1882

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 16th September 1960:—

Issue No.	No. and date	Issued by	Subject
180	S. O. 2231, dated the 9th September, 1960.	Ministry of Commerce and Industry	Draft notification in supersession of S. O. 17 dated 29th December, 1959.
181	S. O. 2232, dated 13th September, 1960.	Do.	Declaration of Cinema Carbons as an essential commodity.
	S. O. 2233, dated 13th September, 1960.	Do.	Direction that all persons engaged in the use of Cinema Carbons shall furnish to the Joint Chief Controller of Imports and Exports, Bombay, information regarding quantity of stocks held by them.
182	S. O. 2286, dated 14th September, 1960.	Ministry of Information and Broadcasting.	Approval of film specified therein.
183	S. O. 2287, dated 16th September, 1960.	Government Telephones Board.	That the Government Telephones Board Ltd. be wound up.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 15th September 1960

S.O. 2289.—In pursuance of sub-section (6) of Section 116A of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby

publishes the decision of the High Court of Judicature at Bombay given on the 29th April, 1960, on an appeal from the order dated the 29th September, 1959 of the Election Tribunal, Parbhani.

APPEAL NO. 920 OF 1959 FROM ORIGINAL DECREE.

(Under Section 116/A of Representation of People's Act of 1951.)

Bhimrao, s/o Shesurao Nayak alias Babasaheb Sawnckar (Original Petitioner),—*Appellant*.

versus

Ankushrao, s/o Venkatrao Ghare (Original Respondent),—*Respondent*.

Appeal against the decision of Rai Surajchand, Esquire, Member, Election Tribunal and District and Sessions Judge at Parbhani in Election Petition No. 3 of 1958.

Mr. Y. V. Chandrachud with Mr. Shivajirao S. Deshmukh, Advocate—for the *Appellant*.

Mr. R. G. Nandapurkar with Mr. R. W. Adik, Advocate—for the *Respondent*.

CORAM: MUDHOLKAR AND GOKHALE JJ.

22nd to 29th April 1960.

ORAL JUDGMENT (*Per Mudholkar J.*)

This is an appeal under Section 116(a) of the Representation of the Peoples Act, 1951, from the decision of the Election Tribunal rejecting the appellant's petition under Section 80 of the Act.

The relevant facts are as follows: Upon the death of Mr. Saif Tayabji, a sitting member of the Lok Sabha, from the Jalna constituency in October 1957, a by-election was held on the 2nd of February 1958. The appellant stood as a candidate on behalf of the Congress and the respondent as a candidate on behalf of the Samyaukta Maharashtra Samiti. The appellant secured 54,733 votes while the respondent secured 57,558 votes and was consequently declared elected.

On the 21st of March 1958 the appellant preferred an election petition under Section 80 of the Act for declaring the election of the respondent to be void and for declaring himself to be duly elected from the aforesaid Parliamentary constituency. The grounds on which the election was challenged may be briefly summarised as follows:—

- (i) that the respondent, his agents and workers bribed a large number of voters with a view to secure their votes;
- (ii) that these persons threatened and coerced the voters in certain areas and compelled them to abstain from voting;
- (iii) that the respondent got printed, published and circulated a pamphlet in Urdu entitling "An appeal by women in the name of humanity" on the 1st of February 1958 wherein false statements were made concerning the personal character of the appellant and in particular a statement that he had forcibly kept in custody two respectable women from the Muslim community who had sought shelter just after the police action;
- (iv) that the respondent had engaged vehicles—Tongas, bullock carts and motor cars—for carrying the voters to the polling booths from their respective houses;
- (v) that the respondent did not submit a correct statement of election expenses as required by Section 77 of the Act;
- (vi) that the respondent procured the services of Government servants in contravention of the provisions of sub-section (7) of Section 123 of the Act in order to further his prospects in the election;
- (vii) that the respondent procured the personification of voters at certain polling booths;
- (viii) that the respondent or his agents displayed an election poster within 100 yards of the ballot boxes at the polling booth in the village Kupta and the complaint made on behalf of the appellant with respect to it was hushed up by the polling officer;

- (ix) that the respondent called every village officer of the village Dhakephal at the village Chansawangi and successfully induced them to misdirect the voters;
- (x) that at the instance of the respondent's polling agents at Mastgad booth in Jalna town, one Police constable Billa No. 544 forcibly entered the Jalna Branch Office of the Bhartiya Dalit Jati Sangh and tore off the wall poster of Pandit Jawaharlal Nehru, shouted at the persons who were working in the office and also put to fright a number of voters belonging to the scheduled castes with the result that they did not cast their votes;
- (xi) that the respondent and his workers and agents held a public meeting at Jintoor till 2 A.M. on the night intervening the 1st and 2nd of February 1958.
- (xii) that the respondent through his agents and workers canvassed within 100 yards of certain polling booths in Jalna town;
- (xiii) that the respondent through his polling agents at Jalna town offered Re. 1/- for every ballot paper brought back from the polling booths by the electors and that the ballot papers so acquired were placed in the ballot boxes of the respondent by the respondent's polling agents and workers;
- (xiv) that the respondent through his agents and workers tampered with certain voters lists;
- (xv) that the respondent got a false news item published in the newspapers "Marathwada" and "Maratha" to the effect that the appellant was claiming votes on the ground of being a Maratha and suggesting that the respondent, though he is in fact a Maratha, was a Brahmin.

The respondent denied all these allegations *in toto*. The Tribunal thereupon framed the following 19 issues:—

- "1. Did the non-petitioner and his local polling Agents of village Kendhali, distribute money at the rate of Re. 1/- per voter among the poor electors of castes Mang, Mahar and Chambar of the said village with the corrupt intention of procuring their votes on the evening of 1st February 1958, as alleged in para. 4(a)(1) of the petition and para. 1 of the amplification statement?"
- "2. Did Mr. Miyan Jaan Deshmukh of Jintoor town obtain Rs. 200/- from the non-petitioner on 31st January 1958 and distribute the same among labourers of Muslim community of Jintoor town at the rate of Re. 1/- per voter on the intervening night of 1st and 2nd February 1958 as a direct monetary temptation to vote for the non-petitioner as alleged in para. 4(a)(2) of the petition and para. 2 of the amplification statement?"
- "3. Did Ram Bhao Maratha of Jalna town on the direct instigation of the non-petitioner and in the immediate presence of his polling Agents of Raj Mahal and Dargah of Jalna town, threaten the Muslim voters of the said area with the words as alleged in para. 4(1)(b) of the petition?"
- "4. Did the non-petitioner personally give threats on 1st February 1958 in the evening to poor electors belonging to castes Mahar, Mang and Chambar of village Kendhali of dire consequence and complete removal from employment, if they do not vote for him?"
- "5. Did the 'Marathwada' and the 'Maratha' newspapers act as Agents of the non-petitioner and print and publish false allegations regarding the petitioner, that he seeks votes on the ground of his being 'Maratha' and despite the contradiction by the petitioner, in 'Lokmanya', the non-petitioner reiterate his assertion in 'Marathwada' to damage the petitioner's election prospects?"
- "6. Did the non-petitioner get printed in Kailash Printing Press and one another press, the pamphlet in Urdu titled as "An appeal by the women in the name of humanity" Exhibit P-1 and get circulated the same through the entire election machinery of the non-petitioner before and after the contradictions made by the petitioner and his workers, Shri Vijindra Kabra and Shri B. G. Gadhe at the public meeting at Jalna on 1st February 1958 and thereby attacking

the personal character of the petitioner by the false allegations, affect the election results pertaining to Muslim voters?"

- "7. Did Shri P. K. Atre and the non-petitioner himself refer in the public meetings addressed by them at Jalna, Partur, Sailu and Ambad to the statement noted in the Urdu pamphlet, Ex. P-12?"
- "8. Did the non-petitioner engage vehicles, such as, Tongas, Bullock carts and motor cars, to carry voters to polling booths as mentioned in paras. 4-c, 1, 2, 3?"
- "9. Whether the return of election expenses submitted by the non-petitioner is incorrect, and whether it does not include the expenses incurred by the non-petitioner or persons authorised by him as alleged in paras. 4 and 8 of the petition in contravention of Section 77 of the Representation of People Act?"
- "10. Whether Shri Deshpande, the Presiding Officer of the polling booth at village Kupta taluka, Jintoor, seized the wall-poster, which was influencing the incoming voters, of the non-petitioner from prominent place within hundred yards of the polling booth at the instance of election agents of the petitioner and subsequently hushed up the matter and did not take any action under the influence of the non-petitioner though it was brought to his notice?"
- "11. Whether the non-petitioner procured the services of patel and patwaris of village Dhakephal during his visit to village Ghansawangi to misdirect the voters of village Dhakephal, that they are not entitled to vote in bye-election and as a result of such misdirection the election results were materially affected?"
- "12. Whether at the instigation of non-petitioner the police constable Badge No. 544 forcibly entered the Jalna Branch Office of Bharatiya Dalit Jati Sangh on 2nd February 1958 and tore off the poster of Shri Pandit Jawaharlal Nehru and thus frightened the scheduled caste voters of the area?"
- "13. Did the non-petitioner and his worker, Shri V. D. Deshpande, address a public meeting on 2nd February 1958 in contravention of the Section 126 of the R.P. Act?"
- "14. Did the non-petitioner through his agents and workers canvass in the prohibited area of 100 yards from the polling booths bearing Numbers 2, 5, 9, 10, 16 and 20 of Jalna town on 2nd February 1958?"
- "15. Whether the non-petitioner through his polling agent at Jalna town offered Re. 1/- for every ballot paper to remove from the booth without putting it in the ballot box and subsequently such ballot papers were put in the non-petitioner's ballot box in the form of bundles (if proved) what is its legal effect?"
- "16. Whether there was personification of voters at the instance of the non-petitioner and through his polling agents as alleged in paras. 4(g) (1) and 8 of the petition, at the polling booth at Badnapur, taluka Jalna, and Kumbhar Pimpalgaon, taluka Ambad?"
- "17. Did the non-petitioner through his agents and workers manipulate to strike out the names of the voters with the assistance of the clerical staff of the Collectorate Aurangabad and Tahsil Office of the Parliamentary constituency, in spite of their names not being included in the list of deletion?"
- "18. Whether the full particulars of the alleged corrupt practices as provided in Section 83 of R.P. Act have been stated by the petitioner in his petition and amplifying statement. If not what is the effect on the petition?"
- "19. To what relief the petitioner is entitled?"

The Tribunal found against the appellant on the first seventeen issues, in his favour on the 18th issue, against him on the 19th and dismissed the petition with costs.

The appeal was argued before us at considerable length by Mr. Chandrachud on behalf of the appellant and Mr. Nandapurkar on behalf of the respondent. With his usual fairness Mr. Chandrachud stated that he did not want to challenge the findings of the Tribunal on issues 1, 3, 4, 9, 10, 13, 14, 15 and 17, and consequently confined his argument to the points raised in the remaining issues. We shall deal with the issues pressed by him in the order in which those issues are set out above.

As regards issue No. 2 the precise statement in the petition is as follows:—

"One Mr. Miyajan Deshmukh of Jintoor town, District Parbhani, obtained Rs. 200/- from the respondent on 31st January 1958 and the said Miyajan Deshmukh distributed the said money to labourers from Muslim community of the above town on the night between 1st and 2nd of January 1958. He distributed the above amount at the rate of Re. 1/- per voter as a direct monetary temptation to vote for the respondent."

There is no reference in this plea to the employment by Miyajan Deshmukh of any other person for effecting the distribution of the moneys. On the other hand it is stated quite clearly that Miyajan himself paid Re. 1/- to every voter whom he met. The appellant, however, filed a statement by way of amplification on 9th June 1958 and in that he stated as follows:—

"In amplification to the statements in para. 4(a)(II) it is submitted that the said Miyajan Deshmukh accomplished this in close co-operation with local polling agents of the respondent from Jintur town. The names of the voters who were so bribed are (1) Nazir Khan, (2) Imroz Baig and (3) Rahim Khan all of Jintur town."

Even here the names of the persons through whose instrumentality the money was disbursed amongst the voters have not been mentioned.

Miyajan Deshmukh, P.W. 18, was examined by the appellant as one of his witnesses. He has stated that subsequent to the Police Action in the former State of Hyderabad he became a member of the Peasants & Workers Party which is now, or rather which was at the date of the election, a constituent of the Samyukta Maharashtra Samity. He also claims to be a worker of the party and to have been for sometime a Secretary of the Jintur taluka Peasants & Workers Party Unit. He had worked in the general election of 1957 on behalf of the Samiti. He was also an official candidate of the Samiti from the Jintur taluka at the general election to the legislative assembly held in the year 1957 but was defeated. According to him, he worked at the bye-election in question for the respondent and in fact canvassed for him in Partur and Jintur talukas. He also alleges to have delivered a speech at a public meeting held at Partur which was addressed, amongst others, by Shri P. K. Atre as well as the respondent.

He lives at a place called Charthana which is a village situate at a distance of about four miles from Jintur. According to him, two days prior to the date of polling he had visited Jintur. While he was sitting in the house of one More, the respondent came there. More, according to him, is a worker of the Republican party and his wife was the polling agent of the respondent at the women's polling booth at Gurni in Jintoor town. In the presence of both, More and his wife, the respondent remarked that the situation was not at all looking favourable and that he had no hopes of success. He, therefore, suggested to all the three of them to procure votes by employing any means available. He actually gave Rs. 200/- to the witness and asked him to disburse that money amongst poor voters for securing their votes. The witness took the money and went along with More's wife next day and disbursed part of the money in five houses through More's wife. He further stated that More's wife paid Re. 1/- each to Kamroobi and Bibanbi and the wife of Mohd. Chavoo in his presence. He himself gave Re. 1/- each to Sundrabai Malan and her husband through Rambhavoo Mali. He then stated that he handed over Rs. 50/- to Nasrullah Khan and Rs. 50/- to one Rahman, Rs. 50/- to Imroz Baig and Rs. 45/- to Rambhavoo Mali for distribution.

Though it is true that this man was one of the Samiti candidates at the general election of 1957, it may be pointed out that he was actually expelled from the Peasants & Workers Party in August 1957. No doubt he denied this fact but there is considerable material in support of this fact. In this connection reference may be made to the evidence of Baba Saheb D.W. 18, Haribhau Deshmukh D.W. 23, Salar Khan D.W. 26, Syed Osman D.W. 27, Mohd. Iqbaluddin D.W. 29, Prabhakar Rao D.W. 30, Bhujang Rao D.W. 31, Mir Hasham Ali D.W. 63, Mir Tilawat Ali D.W. 66 and Narayan Rao D.W. 83.

The main charge against him apparently was that he had worked against the Congress candidates during this election and even accepted money from his opponent and deliberately lost the seat to the Congress. The statements of the witnesses are borne out by the rough minutes of the meeting of the party held at Kawadgaon at which the witness was expelled. That such a meeting was held was in fact admitted by the witness though, according to him, the only object with which the meeting was held was to consider the cases which led to the defeat of the party candidates at the general Election. The fact that the witness was expelled from the party would be further borne out by the circumstance that he admittedly did not attend the workers' meeting, which was called at Aurangabad on the 6th January 1958 and from the further fact that he did not work on behalf of the party at the Municipal elections held at Parbhani after this bye-election. Apart from that it would appear that the witness is a man of dubious antecedents. He was a member of the Ittehad-ul-Muslimeen (which was a Razakar organisation) before the Police Action. A criminal case had been instituted against him in which it was alleged that he had taken part in looting a godown. These acts ended in his conviction in the Court of Session. He was, however, acquitted on appeal. He was also suspected of being involved in certain dacoities and murders which had occurred in the Hyderabad State just before the Police Action and was in fact challenged in respect of those offences. It may, however, be mentioned that he was tried for the offences and was eventually released from the jail on the 25th of January 1950. Because of these antecedents his property was confiscated by the Hyderabad Government and apparently it has not yet been released though he is making efforts to get it released.

Looking at the evidence of this witness against this back-ground it would be extremely unsafe to act upon it. He is quite obviously a desperate character and is wanting in scruples. We, therefore, agree with the tribunal that no reliance can be placed upon his evidence.

It is true that the appellant has examined Bhimabai, the wife of More, to corroborate Miyajan's statement that the respondent handed over Rs. 200/- for purchasing votes. But she is, like him, worthless witness. Apart from that the story which she has told does not fit in with the one given by Miyajan. Bhimabai has stated that the respondent had visited her house two days before the date of polling and at that time besides she and her husband, Miyajan was present in her house. She did not say anything more. She was, then, asked, what is quite patently a leading question, "What did the non-petitioner say and give at that time?" Her reply was:—

"He did not say anything and sat there only. Miyajan talked there. Miyajan asked the non-petitioner as to whether he brought the money. The non-petitioner said that he brought Rs. 200/- and gave the same to Miyajan, for distribution among the poor voters for getting their votes."

We have already stated what Miyajan's version was. He does not suggest that there was any previous talk between him and the respondent about disbursing money amongst the voters. While, according to Bhimabai, Miyajan asked the respondent whether he had brought the money, implying thereby that on some previous occasion the respondent had promised to bring money, Miyajan has stated that the respondent had asked him also to give threats to voters for securing their votes. Bhimabai says nothing about it. Similarly, Bhimabai does not corroborate Miyajan regarding the rest of the talk between Miyajan and the respondent. Apart from the fact that Bhimabai does not appear to be a witness of truth her evidence does not sufficiently corroborate all that Miyajan had said. Apart from the fact that before any answer on the point of passing of money could be elicited from her a leading question had been put to her. We would like to refer to a note made by the tribunal regarding her evidence. The note runs thus:

"She was asked several times to take oath of Budh-Deo, but she refused to take the oath of Budh-God. I worship Maroti and she states taking the oath of Maroti. I know the non-petitioner, Shri Ankush-rao Ghare."

She is apparently a neo-Buddhist and that was the reason why she was asked to take her oath by Lord Budha. Her refusal to take the oath by Lord Budha cannot be ignored, while judging her truthfulness. In her cross-examination she was asked a pointed question with respect to this matter and she said—"I did not take the oath of Budha, if I had taken the same I would not have deposed as above." She has also stated earlier in her cross-examination—"Since I adopted Buddhism, I left worshipping all Hindu Gods. Budha is only God. I believe

only in Buddhism. I have no faith in other Gods." It is quite clear that though she has deposed after taking the oath by the deity Maroti, no value can be attached to her evidence because her taking oath by that deity was meaningless. She believes only in Lord Budha and does not believe in Maroti or any other deity of the Hindu pantheon. She has moreover said in categorical terms that she would not have deposed to the particular facts had she taken oath by Lord Budha. We have, therefore, no hesitation in rejecting her evidence as false.

Having come to the conclusion that the evidence regarding the payment by the respondent of Rs. 200/- to Miyajan has not been established it would be needless to consider the evidence led by the respondent to prove the fact of distribution of the money. However, from one point of view that evidence may have some value and that is as affording indirect corroboration to the evidence of Miyajan.

The witnesses examined on the point are Sayed Rahim P.W. 48, Imroz Baig P.W. 49, Mohd. Abdul Majidkhan P.W. 54, Devidas Tokaramji P.W. 41, Seshrao P.W. 52 and Mr. Gadhe P.W. 55.

The evidence of Mr. Gadhe does not assist the appellant very much because he makes no specific mention of distribution of money by the respondent through the agency of Miyajan. All that Mr. Gadhe says is that he had received reports on 1st February 1958 that money was distributed by the respondent at Jintoor. Apart from the fact that Mr. Gadhe's evidence is hearsay evidence it does not connect the respondent with the distribution of money because it does not refer to his alleged instrument, i.e., Miyajan.

The evidence of Seshrao Walurkar is likewise of little assistance to the appellant because all that he says is that in exchange for two currency notes of Rs. 100/- each he gave 200/- notes of Re. 1/- each to Miyajan prior to the date of polling. Even Miyajan does not say in his evidence that the respondent gave him Rs. 200/- in the shape of two currency notes of Rs. 100/- each which he exchanged with currency notes of smaller denomination with Seshrao.

Sayed Rahim who claims to have received Rs. 50/- from Miyajan for distribution amongst the voters is admittedly a Congressman. He says that he distributed the money amongst the voters of Jintoor and has named some of the persons amongst whom he had distributed that money. It is difficult to believe that a Congressman would distribute money in the interest of a non-Congressman. Moreover, none of the persons amongst whom the money was distributed has been examined as a witness in the case. It has further to be borne in mind that not merely is he a Congressman but that he holds some position in that organisation. For, shortly after the bye-election he was put forward as a Congress candidate for election to the Jintoor taluka. It is difficult to believe that such a person would distribute money in the interest of a non-Congressman and particularly so when such a person is opposing a Congressman. We would also like to point out that as admitted by the witness he even canvassed for the Congress candidate on that date. Such conduct is wholly inconsistent with his having done anything contrary to the interest of the Congress candidate on that day or any day prior to that.

Now, Imroz Baig who claims to be a recipient of Rs. 45/- from Miyajan claims to have been worker of the Peasants & Workers Party. It would, however, be seen that his party loyalty is not very strong because shortly after the bye-election he like Syed Ibrahim also contested the election of the town council as a Congress candidate. It would be extremely unsafe to rely on the evidence of a person like this. It is indeed possible that both he and Syed Ibrahim having now benefited through the Congress organisation are prepared to support the cause of another Congressman. We would also like to point out that according to this witness he distributed the money and a part of the money distributed by him went to persons who are not voters at all and who are related to him. Surely, though he was asked to do something in the interest of the respondent and had undertaken to do it, he would not have thrown away the money in this fashion.

Mohd. Abdul Majid Khan, P.W. 54, says that Miyajan paid Rs. 50/- to his brother, Nasrullah Khan, who was a worker in the Peasants & Workers Party. According to him, Nasrullah Khan handed over the money to him to be distributed amongst the voters. Now, this man's name does not appear even in the amplification statement, nor in the list of witnesses. Even Nasrullah's name is not mentioned in the amplification statement, though, according to Mr. Chandrachud, the person Nasir Khan mentioned therein is no other than Nasrullah

Khan. He states that Nasrullah Khan was seriously ill and that is why he stepped into the witness-box. Therefore, even assuming that Nasir Khan is the *alias* of Nasrullah Khan, the witness has come to step into the breach caused by the inability of Nasrullah Khan to depose because of his illness. We agree with the tribunal that no value can be placed upon his testimony.

It may be convenient to observe here that even in the amplification statement the witnesses, Sayed Rahim and Imroz Baig as well as Nasir Khan are said to have each received Rs. 50/- from Miyajan as bribes, to themselves and not for the purpose of distributing the moneys as bribe amongst the other voters. There is thus a wide departure in the evidence from the pleading on the point. The only other witness who has been examined on behalf of the appellant on this part of the case is Devidas Rao, P.W. 41. He was admittedly the respondent's polling agent at Bhogaon polling station. According to him, the respondent told Seshrao Patwari in his presence that he had given money to Miyajan and that he had, therefore, no money with him and consequently he, that is the Patwari should hand over Rs. 10/- to the witness Devidasrao. We shall deal with Devidas's evidence in another connection shortly but suffice it to say here that the story told by the witness sounds extremely artificial. Further it should be mentioned that this witness does not say that the respondent had admitted that the money was given to Miyajan for the purpose of bribing the voters. As pointed out by the tribunal, if the date of handing over the money is calculated from the date furnished in the evidence of the witness, it would appear that it was paid on the 29th of January whereas according to Miyajan it was paid on the 31st of January. Of course, that by itself would not be a clinching ground for discarding his testimony but looking at his evidence as a whole this circumstance appears to justify the conclusion that he is not a witness of truth. We, therefore, agree with the tribunal that his evidence is of no value.

The respondent has examined five persons in rebuttal including himself on this point. Their names are D.W. 15 Jagarao, D.W. 22 Bhaskar Rao, D.W. 27 Sayed Osman Sayed Ibrahim, and D.W. 28 Rambhau Munjaji. The first three of these are admittedly the workers of the Samiti and they denied that any money was distributed on behalf of the Samiti or the respondent at Jintoor. Rambhau Munjaji is a person who is referred to in the evidence of Miyajan and he says that no money was paid to him by Miyajan. It is true that, according to him, there is another man bearing the same name who is a friend of Miyajan but if he was the person whom Miyajan had in mind we have no doubt that the appellant would have examined him as a witness because that person is his close friend.

Considering the evidence as a whole we are of the opinion that the view taken by the tribunal is correct and that the appellant has failed to establish that any money was paid as a bribe by the respondent or by any of his workers or agents to any voter in the constituency with a view to securing votes or with a view to secure the blank ballot papers from them.

We have already stated earlier that Mr. Chandrachud did not want to challenge the findings of the tribunal on the 3rd and the 4th issues. It is, however, necessary to state that initially Mr. Chandrachud did address to us some arguments with regard to issue No. 3 and referred us to the evidence of P.W. 17 Mohd. Osman P.W. 63 Rambhau and P.W. 15 Nurul Huda. According to Mohd. Osman, 5 or 6 persons along with Rambhau P.W. 63, went to the Muslim mohalla three or four days before the date of Polling and asked the voters to cast their votes in favour of the Samiti and warned them that if they did not do so they would be made to suffer dire consequences. Further, according to him, these persons told the Muslim voters that if they did not want to cast their votes in favour of the Samiti they should not exercise their franchise at all. This witness says that he always used to vote for the Congress but after Rambhau and others had given threats they thought it advisable not to exercise their franchise at all. Half a dozen people in his family are entitled to vote, but, according to him, none of them had cast his vote. The evidence of this witness seems to us to be artificial. Apart from the fact that he is a supporter of the Congress he knows the appellant but does not know the respondent at all. He did not inform anyone about the threats which were given by Rambhau and his companions. In para 3 of the amplification statement it is stated that the aforesaid threats were given by Rambhau on the polling day in the immediate presence of the respondent's polling agents. The evidence of this witness, however, does not bear out those allegations but on the contrary is to the effect that threats were given much earlier. No mention is also made in the evidence of the presence of the respondent's polling agent at the time of the giving of threats. Further the witness has named certain persons who are said to have refrained from exercising their franchise. It would

seem that some of them no longer lived in Jalna. The names of two of those persons, Bismillah Khan and Chotemiyar are not in the voters list and it is not clear whether the names of others and those of Hazurmian and witness himself were in the voters list. Incidentally, it may be mentioned that this man was convicted by the Court of Sessions for the offence of murder and his conviction was upheld by the High Court of Hyderabad. He was, however, acquitted by the Judicial Committee of the former Hyderabad State. In the circumstances we do not think that it is safe to rely upon his testimony.

Then there is the evidence of P.W. 63, Rambhau, who says that he worked for the Samiti at the bye-election in question. According to him, he canvassed in the mohallas Dargah, Old Jalna and Rajmahal for the Samiti. According to him, the respondent had asked him to canvass for him and to induce voters, even by giving threats, to vote for the Samiti. In pursuance of this he visited the house of two or four persons and asked them either to vote for the Samiti or if they did not want to do so not to vote at all. The actual words used by him are as follows:--

"Agar Tum Samiti Ko Vote Naheen Doge To Tumara Rehna Muskil Kar Deenge."

"(If you would not cast vote for Samiti candidate then your residence at Jalna would become difficult)."

Immediately after the witness deposed to this fact he got a vomiting sensation and in fact vomitted in the midst of his cross-examination. When certain questions were pressed upon him he again complained of nausea, and therefore the Court had to adjourn the hearing of his evidence for an hour. He is merely a labourer and seasonal factory worker and appears to be a man of no substance. At the time he gave evidence he was in the service of a congressman. It is apparent from his evidence that he does not know the respondent at all and that the first time he met the respondent was when the latter asked him to secure votes for him by giving threats. It is difficult to believe that the respondent who is a responsible man would employ an utter stranger not merely for canvassing for him but for doing something which is clearly illegal. In view of this improbability and also of the facts that the witness is a person of no substance and was feeling uncomfortable while giving his evidence, it is legitimate to infer that he was prevailed upon to give evidence in favour of the appellant by a person or persons interested either in him or in the organisation which had set him up as a candidate. We, therefore, attach no value to his testimony. We may also point out that the tribunal has expressed the view that the evidence of the witness is self-contradictory because while at one place he says that he gave threats to the voters and at another he says that he canvassed for the respondent saying that the Samiti is formed for the benefit of the poor and that the poor voters would be voting for their own benefit. That is also another reason for not giving any credence to what the witness has stated.

The last witness in point is Noorul Huda, P.W. 15, who speaks of threats given by Rambhau. According to him three or four days before the date of polling Rambhau addressed a public meeting wherein he had asked the Muslim voters of Dargah Mohalla to cast their votes in favour of the Samiti and told them that if they did not vote for the Samiti they would suffer serious consequences. Nurul Huda also said that Rambhau mentioned to them that if anyone did not wish to cast his vote in favour of the Samiti, he should not cast his vote at all in the election. Rambhau does not speak of addressing any meeting at all. Moreover, the statement of the witness that threats were given three or four days before the date of polling is contradictory to the pleadings on the point. The witness was a previous convict having been released after four years from jail. In these circumstances, we agree with the tribunal that his evidence ought not to be acted upon. We would further point out that this witness like Mohd. Osman had failed to complain to the police about the threats said to have been administered by Rambhau. That is an additional reason for not accepting his evidence as true.

In view of the weakness of the evidence of all these witnesses, Mr. Chandrachud ultimately conceded that he did not wish to press any further his challenge to the finding of the tribunal on issue No. 3.

Mr. Chandrachud further pointed out that three witnesses were examined on behalf of the appellant for proving that at the village hospital and the temple ground also threats were given to voters on behalf of the respondent and that the evidence of these witnesses was rejected by the tribunal because this place is not mentioned either in the petition or in the amplification. He, therefore, did not wish to challenge the finding of the tribunal with regard to the threats that have been given to the voters of Dargah.

We now come to the issue No. 5. It is an admitted fact that the news papers "Marathwada" and "Maratha" published certain news item concerning the election. According to Mr. Chandrachud, these news items were published with the concurrence of the respondent and in his interest and that the publication of the news items amounts to a contravention of the provisions of sub-section (3) of Section 123 of the Act. Ex. P-154 is an account given in the issue of 'Maratha' dated 3rd February 1958 of the election campaign in the Jalna constituency. Amongst other things it is stated therein that the Congress is a communal organisation, that the Marathwada Congress had fallen a prey to rank communism and the present communal policy of Mr. Chavan is sought to be enforced in Marathwada. No attempt has been made to substantiate the allegations made in the Maratha and therefore, these allegations must be dismissed as wild and irresponsible. At the same time it is difficult to appreciate how the publication of such allegations would amount to a contravention of the provisions of sub-section (3) of Section 123. That sub-section reads (as it stood prior to its amending Act No. 58 of 1958) as under:—

"(3). The systematic appeal by a candidate or his agent or by any other person to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of that candidate's election."

Such an act is defined as a corrupt practice under Section 123. Reading the article as a whole it is clear that in no sense can it be regarded as an appeal by or on behalf of the respondent to voters to vote or refrain from voting on the ground of caste. It quite clearly levels a charge against Congress that it is a communal organisation. By making such a charge however illfounded it may be, it cannot be said that person on whose behalf it is made is soliciting votes on communal grounds. Mr. Chandrachud, however says that that is a very clever way of carrying on propaganda. According to him the object of the respondent was to make the voters believe that the opponent is the person in whose behalf the propaganda is carried and that he is communal minded or is a candidate put forward by an organisation which has communal leanings and that no one should vote for him, implying thereby that the voters should vote for the candidate on whose behalf the propaganda is in fact made. It is true that the object of propaganda of this kind is to enlist votes and support for the candidate in whose interest the propaganda is carried on. But it is not easy to understand how it can be said to amount to enlisting support by raising communal feelings. The very object of such a propaganda is to allay the communalism and to warn the voters not to fall a prey to it and not to support one who is communally minded or whose candidature is supported by an organisation which has degenerated into a communal organisation. In the circumstances, therefore, we cannot accept Mr. Chandrachud's argument that the publication of the aforesaid article amounts to corrupt practice within the meaning of the provisions of sub-section (3) of Section 123.

The next news item is Ex. P-27, which appeared in the Marathwada dated the 5th of January 1958. There amongst other things it is stated:—

"Congresschya va Marathwada Pradesh Congresschya Jatiyawadi Ekantik Dhoranala Kantalan Stabdh Basalelya Congress Karyakartyanchi Shri Yeshwant Rao Chavan yanchakadun Samjoot Ghalavi Asen Prayatne Hote Asalayache Aikivant Ahe."

Samiti Tarfen Shri Ankushrao Ghare He Maratha Jamatiche Umedwar Ubherahilemule Jatiyabhavana Chetavinyachen Hukmi Hetyar AAPlya Hatun Gadun Padliyaichi Congressla Rukh Rukh Watat Ahe. Parantu Urtlen Surlen Jatiya Awahan Jamel Tya Jamati Sathi Waparnyache Congresschi Tyari Chaloo Aslyachen Disten. Mukhya Mantri Shri Yeshwant Rao Chavan Dinak 2 January Roji Aurgabad Yethe Aalen Asthana Congresscha Karyalyant—Pradesh—Karyakartyanchya Sabhant Tyanche Ek Bhashan Jhale. Ya Bhashnant Shri Chavan Yanni Asen Sangitalyachen Vishwasaniya Ritya Samajten Kin Shri Chavan Yanni Ase Sangitale Kin Vastutah Jalnyachi Jaga Muslim Congress Umedwarankartita Ahen. Samiti Tarfen Maratha Ubha Rahilyamulen Shri Baba Saheb Sawanekar Yanna Ubha Karaye Lagle. Muslim Bandhunni Na Ragavatan Sawanekarana Nivadun Aananyakarita Manapasun Prayatna Kele Pahijet. Asen Shri Chavan Yanni Aavarjun Sangitlen."

(English translation of the above).

"It is heard that efforts are being made to ask Shri Y. V. Chavan to activate the workers who are tired of communal policies of the Congress and of the Marathwada Pradesh Congress. The Congress is feeling sore because an effective weapon or arousing communal feelings dropped from their hands since a candidate belonging to the Maratha community has been set up on behalf of the Samiti. It seems, however, that the Congress is prepared to resort to such communal appeal as is possible in the circumstances, as would appear from the statement made by Mr. Y. B. Chavan, Chief Minister, in a meeting which he had addressed at Aurangabad in the office of the Pradesh Congress Committee on the 2nd of January 1958. It is reliably understood that Mr. Chavan said in his speech that in fact Jalna town is intended for a Muslim candidate but because a Maratha candidate was set up on behalf of the Samiti, Mr. Babasaheb Sawanekar had to be set up as a candidate on behalf of Congress. Mr. Chavan appealed to the Muslim voters not to cease to vote for the Congress and to support the candidature of Mr. Sawanekar and see that he is elected. While appealing to the Muslim voters he said that in a sense he considers Mr. Babasaheb as a Muslim and therefore the Muslim voters should elect him and express their faith in the Congress."

We have freely translated the relevant portion of the news item which appears in the Marathi language. Here also emphasis has been made on the alleged communalism or the communal attitude of the Congress and no appeal has been made on behalf of the respondent or the Samiti to secure votes for him by raising communal feelings. What we have said regarding the news item which appeared in the Maratha should, consequently, apply to this article also.

The next news item is from the issue of the *Marathwada* dated 16th January 1958 and is at Ex. P-28. It runs as follows:—

"(Marathi version)—Tyavarun Asen Samazten Kir Johir Ritinen Congresschen Pudhari Golgol Bolat Asalen Tari Khajgi Beithakartun Va Natalangan-Chya Ganthi Betint Kanantale Kanant Samitiche Umedvar Shri Ankushrao Ghare He Brahman Ahet Mahanun Marathyanni Tyanna Maten Deoo Nayen Asa Dhaddhadit Khota Prachar Te Kareet Aahet. Ha Prakar Unapekshitpanen Ughadkis Aalyachen Khatrilayak Ritya Samajaten. Samitiche Karyaakarte Eka Thikanin Utarten Hote. Thodya Velanen Congress Karyaakarte Aale. Ty a Gharchya Manasanshi Bolun Lagalen. Tyanen Aapan Samitila Mat Denar Asalyache Sangathanch Congressche Karyaakarte Mahanalen Kin Samiti Tarfen Maratha Umedvar Asatan Tar Kahin Harkat Navati. Pan Samitine Shri Ankushrao Ghare Ya Brahmanala Ubhen Kelan Aahc, Congresswalyanna Nantar Tyach Ismanen Sangitalen Kin To Khote Bolat Asun Ghare Hey Tyanche Swatache Natalag Asun Va Marathe Aahet."

(English Translation)

"It would appear that whatever the Congress leaders say or are saying in public, in private conversation as well as in private meetings they are secretly saying that the Samiti candidate Mr. Ankushrao Ghare is a Brahmin and, therefore, the Marathas should not cast their votes in his favour. It is indeed a blatantly false propaganda. We understand from a reliable source that this propaganda has been accidentally discovered. A Samiti worker was staying as a guest with a person who is Congress worker's friend. During his stay some Congressmen visited the friend's house and began to talk with the members of his household. Learning from them that those persons were going to vote for the Samiti the Congress worker said that there would have been no objection in doing so had the Samiti set up a Maratha candidate. But the fact is that the Samiti had put forward Mr. Ankushrao Ghare who is a Brahmin. The friend then told those Congress workers that they were telling lies and that Ghare was related to him and is in fact a Maratha."

Mr. Chandrachud said that this was an extremely clever way of telling the voters that Mr. Ghare was a Maratha and that the electors, particularly Marathas, should vote for him. In our opinion it is difficult to characterise this news item as communal propaganda on behalf of the respondent. No doubt the respondent is a

Maratha and this fact has been brought out in the news item. But it cannot be said that by publishing this fact any appeal was being made to the electors to vote for the respondent on the ground that he is a Maratha. Apparently the object of publishing the news item was to contradict false propaganda alleged to have been secretly carried on by the Congress workers against the respondent. It may be that as a result of the publication the voters would come to know of the precise community to which he belongs but by merely bringing the fact to the notice of the public it would not be proper to infer that their votes were being solicited on communal grounds. We are, therefore, unable to accept the argument advanced before us by Mr. Chandrachud.

Finally, we would refer to Ex. P-47, that is from the issue of the Marthwada dated the 26th January 1958 and the relevant portion of it is as follows:—

(Marathi version)

"Marathwada Di, 16 Januarychya Ankant Congressvalyanni Shri Ankushrao Ghare Hey Maratha Nahint Va Sawnekar Marathe Aahet. Asa Jatiya Prachar Kela Asalyachi Samitichya Vatinen Aaleli Batami Prasiddha Jhali Hoti. Ya Varteच्या उत्तरांत काँग्रेस तर्फे श्री रामगोपाल नाबंदार वा जाल्यारे श्री शिवाभाई पटेल जैन ईक पटनाईक लोकमान्या दानिकांत प्रसिद्धां केलान आहो. काँग्रेसवाले आपल्या उमेदवाराना जात फाक्त काँग्रेस हीच दाखवतात. मराठा ब्रह्मण मुसलमान सगळे नाहित. असे त्याच पत्राकत म्हताले आहे. ये सांबांधी जालाना कार्यालयाकडे आशी मातृखिती आली आहे. कि काँग्रेसवाल्याचा हा दावा शम्भार ताकडे खोटा असून जातीयवादा खेरीज काँग्रेसवाल्यांनाच दुसरा एकाही विचार नाही. माहासुल खात्याचे उपमंत्री श्री शंकर राव, चवान हे पारतूर तालुक्यातील धोतराज्यांच्या आशी ह्या गावी गेले असून त्यांनी तेथी साबा गहेली. त्या साबहेत त्यांनी आदी जाहीर रतीने बाबासेब सावनेकार हे मराठा आहेत वा सर्वा मराठ्यांनी त्यांना मातेन द्यावेत असे आवाहन केले. दिनांक 18 जानेवारी रोजी ही साबा ज्हाली. काँग्रेसची साबा संपाल्यावर लगेच समितीची साबा ज्हाली. तेन्त श्री वामनराव देशमुख, प. देशमुख वागारेची भाषणेन ज्हाली. वा त्यांनी श्री चवान यांच्या जात्या आवाहाना खारपूर सामाचार गहेला."

(English translation).

"In the 'Marathwada' of the 16th January a news item was published to the effect that the Congress is carrying on a propaganda that Ankushrao Ghare is not a Maratha while Mr. Sawnekar is a Maratha. In order to contradict this on behalf of the Congress Mr. Ramgopal Nabandar and Mr. Shivabhai Patel of Jalna have published a letter in the Lok-Manya. It is said there that Congressmen mentioned only 'Congress' as the caste of the candidate and they never say that the candidate is a Maratha or a Brahmin. It is learnt from the Jalna office of the Samiti that this assertion on behalf of the Congress is cent. per cent. false and that besides communalism the Congressmen think of nothing. Mr. Shanker Rao Chavan, Deputy Minister for Revenue, addressed a meeting at Ashti in Partur taluka and stated publicly that Baba Saheb Sawnekar is a Maratha and that all Marathas should cast their votes in his favour. This meeting was held on the 18th January. After this meeting was over the Samiti held a meeting and there Messrs. Vaman Rao Deshmukh and R. B. Deshmukh and some others spoke. They strongly criticised Mr. Chavan."

"The aforesaid news item is also of the same kind as the other three, with which we have dealt above, and what we have said regarding them would apply to this news item also. Therefore, though we are inclined to agree with Mr. Chandrachud that this news item having appeared in a newspaper which was supporting the candidature of the respondent, must be deemed to have been published by the agents of the respondent we cannot accept his further contention that it falls within sub-section (3) of section 123 of the Act.

We now come to issue No. 8, which relates to the engaging of vehicles of different kinds for carrying voters from their houses to the polling booth.

In para 4(e) of the petition the following allegations have been made:—

"(a) The respondent employed vehicles like Tongas, Bullock carts and Motor cars to carry voters to and from the polling stations particularly

in towns of Jalna, Ambad, Jintoor and villages like Wotoor, Bhogaon etc. The candidate and/or his Agents paid in cash for conveyance by such vehicles, for instances :—

- (i) Some taxis, among them BYG 147, was employed by respondent and paid on his behalf to carry Muslim lady voters in Jalna town on polling day.
- (ii) Few tongas, among these tongas of Nandu and Hari each were employed by respondent and paid on his behalf to carry Muslim Lady voters from Rajmahal and Dargah area of Jalna town, on Polling day. A written complaint was lodged with the presiding officer of the said booth the receipt of which is attached herewith.
- (iii) Some bullock carts were employed by the respondent and paid on his behalf to carry voters of Bhogaon Taluka Jintoor and Watoor taluka Parthur. Many Muslim lady voters utilised this paid conveyance at Bhogaon and lady voters of upper class Hindu family at Watoor."

In para. (6) of the amplification statement it is stated that the Muslim lady voters who made use of the taxis engaged on behalf of the respondent were Aziz Munibi w/o Hafiz Khan, Junabi w/o Mohd. Ismail, Rabiya w/o Shaikh Abbas and Ramzanbi w/o Janimiya.

The taxi No. BYG 147 which is alleged to have been used in the elections belongs to Bismillah Khan, P.W. 8. He is a resident of Aurangabad. According to him, the respondent had taken his taxi on hire for 15 or 17 days at the rate of Rs. 15/- per day. He accordingly sent it to Jalna along with his son Nasrullah Khan, two days before the polling date that he got information from his son that it had gone out of order and that thereupon he went to Jalna and then proceeded to Jaffarabad where the taxi had failed. He got it repaired on the polling date and brought it to Jalna. It was about 2 or 3 p.m. by the time the taxi reached Jalna. He then stated "I carried the passengers (voters) in my car to the polling boothI did two rounds." He was, however, unable to say as to whether the persons who were carried in the taxi were men or women because curtains were fixed to the taxi. He was also unable to say how many persons had sat in the taxi on each occasion. He then stated that his son Nasrullah Khan drove the taxi and he used to take persons to the girls' school for enabling them to cast their votes. In his cross-examination he has stated that the axle of his car had broken at Jaffarabad and that Nasrullah Khan had come to inform him at Aurangabad. He admits that he did not purchase a new axle but he does not say whether he had any spare axle in stock with him which he could utilise in times of emergency. According to him, the ballbearings were also damaged but he says that he replaced them with those which he had as spare in his house. Now, the axle is such a thing that once it is broken it has to be replaced and it cannot be repaired. No doubt the witness says that he restored the car to working order but in the absence of any statement on his part regarding the replacement of the axle it is difficult to believe his statement that he had managed to put the car back in working order. He has also made some statements which are clearly false, or which are difficult to reconcile. In one breath he says that he carried the passengers in the car and made two rounds and in another breath he says that it was his son who drove the car. Then he says that he cannot say whether the voters were men or women because curtains had been put on the taxi. After the matter was pursued a little further he was asked as to how many persons were in the taxi. He came out with a story that the taxi was driven by his son and that while his son was making the trips he stood at an Ashurkhana after washing his face in the mosque of Murti Talab Mohalla, implying thereby that he was not in a position to see anything. He admitted the execution of receipts, Exs. P-11 and P-12. They are dated 4-2-1958 and it is apparent from those receipts that hire charges at Rs. 15/- per day were paid for 13 days ending on 31-1-1958. This receipt completely belies the statement of the appellant to the effect that the taxi was actually used after 31-1-1958. The polling day was 2-2-1958 and, therefore, the taxi could not have been used on that day. It is pertinent to bear in mind that the witness does not say anything over and above what is specified in the receipt nor does he say that any amount is outstanding against the respondent. In his cross examination he has stated that one Panditrao Gavane had engaged his taxi on 16-1-1958. He also admits that because of the breakdown the taxi could not be used for two days. The taxi was, therefore, used, according to him also, for thirteen days only and the two receipts show that they together pertain to the hire charges for 13 days. According to him, however, the taxi went out of order on 31-1-1958. According to D.W. 46, Kushalrao, the

taxi went out of order on 29-1-1958, Bismillah's statement cannot be regarded as true because that would imply that the taxi was used for 15 or 16 days before it went out of order and, therefore, he would have to be paid for more than 13 days. According to the respondent the taxi went out of order on 29-1-1958 and was not put in order till after the elections were over. This seems to be more probable than what Bismillah says because the charges were paid for 13 days only and not for a day more. Had the taxi, after having gone out of order on 29-1-1958, been repaired and used on the day of the election payment would have had to be made for one additional day, i.e., for 14 days and not merely for 13 days. The documentary evidence as well as the evidence of D.W. 46, Kushalrao, belie the statement of Bismillah Khan who, as already pointed out, has made certain statements which are not true. Then there is the evidence of Aminabi, P.W. 33. According to her, she was deputed to take Muslim voters from their houses to the polling booths situate in the girls' school at Jalna. She is an omnibus witness in the sense that she has deposed about various matters. In the examination-in-chief, according to her, at the instance of one Bane Khan, she had carried on canvassing in the interest of the respondent, though according to her she had also distributed certain pamphlets at his instance and finally escorted the female voters to the polling booths in motor-cars, bullock-carts and tongas. She does not identify Bismillah Khan nor does she mention the number of the taxi but what she says is this that the taxi which was used on that occasion was from a place outside Jalna and that the driver was a bearded man. It is admitted before us that Bismillah Khan bears a beard but there is nothing to indicate that Nasrullah Khan had a beard or not. Now, since according to Bismillah Khan the taxi was being driven by Nasrullah Khan, it cannot be said that the evidence of this witness affords any corroboration to that of Bismillah Khan. Apart from that we think that she is not a reliable witness at all. In the first place she claims to have been engaged by Bane Khan to do different kinds of jobs at the election on the promise that she would be paid for the work, yet according to her she received no payment whatsoever from Bane Khan. Bane Khan is admittedly a Congressman. He was not asked any question regarding the promise. It cannot be said that he would do anything to further the interest of the opponent of the Congress at the election. Aminabi claims to have been a Samiti worker at the election but admits that she was not asked to come for voting. She has further admitted that though she worked for the Samiti she does not know what is Congress and what is Samiti. It is difficult to believe that a person who was completely ignorant about the two parties which were arrayed on opposite sides would be chosen to carry on the difficult task of canvassing and bringing voters to the polling booths. It would, therefore, be legitimate to infer that she is a person who, having deposed in an irresponsible manner, is wholly unreliable. We, therefore, agree with the tribunal that her evidence does not merit credence. As against the evidence of Bismillah Khan and Aminabi, there is the evidence of D.W. 38, Dattatrayarao Ganpatrao, on behalf of the respondent. He has admittedly worked on behalf of the respondent. This is what he has said concerning the taxi: "Shri Panditrao and Shri Kushalrao had come to Jafferabad from Aurangabad in a hired car of Bismillah Khan. Its plate No. is 147-BYG. I do not remember whether its number was in black or red colour. I reached Jafferabad on 1st February 1958 at about 10.00 a.m. I was at Jafferabad on the polling day. The motor car of Bismillah Khan was lying at Jafferabad in disordered condition. It was lying in front of the house of Ghulam Jaan Khan. The said car remained there on 2nd February, 1958 also as it was not in working order." According to Kushalrao, D.W. 46, the taxi continued to remain at Jafferabad on 5-2-1958. The statement of this witness on the point that the taxi was lying at Jafferabad on the polling day, i.e., the 2nd of February 1958 and that too not repaired, did not appear to have been challenged at all in cross-examination. Both the witnesses are lawyers and are thus responsible persons. They have given their evidence in a straight forward manner and their evidence had found favour with the tribunal, which had the opportunity of hearing both of them. In the circumstances, we would accept their evidence, including their statements that the taxi was not in a fit condition on 2-2-1958 and hold that it could not have been used at Jalna on that day for carrying the voters from their houses to the polling booth.

Then according to the appellant tongas of two tonga-drivers, Hari and Nandu were used. Nandu has been examined as P.W. 3 on behalf of the appellant. He is a boy of 20 years and a Gowli by caste. According to him he had worked on behalf of the Samiti at the by-election. He carried a loud speaker in his tonga throughout the town of Jalna on Saturday the 1st February, 1958. He says that the Samiti workers had asked him to have his tonga taken to the Samiti office on the morning of the 2nd February, 1958, i.e., on the day of polling. He took a Samiti worker and two other persons from the Samiti office to the polling booth.

He then took the Samiti workers from place to place and that eventually one worker directed him to take women voters in his tonga to the polling booth. According to him, that worker actually took him to a house, made the voters sit in his tonga, advising the women to place their ballot papers in the box having a mark of the 'Cart' (Gadi) the emblem used by the respondent—and that in pursuance of the instructions he took them to the primary school. The voters got out at that place and after they voted he took them back to their houses. According to him he made three trips from the houses of the voters to the polling booth and that in each trip he carried about 5 or 7 passengers to the polling booth. He further said that he received Rs. 10/- from the Samiti office for the election day and Rs. 5/- for the work on the previous day, for which he had passed a receipt. He has further deposed that while he was waiting for some voters to come back after voting, he was warned not to bring his tonga. A Congress worker had stopped him and asked him whether the persons who were sitting in the tonga had paid him the charges. Thereupon he told him that they had not paid the charges and that the Samiti had engaged him and that it was the Samiti which had paid the charges. It is significant to note that though this witness says that he was stopped by a Congressman while he was carrying Muslim female voters to the polling booth he does not say that he mentioned this fact to any Samiti worker. He is not in a position to say which particular house he visited nor mention the name of a single voter whom he had carried from his house to the polling booth. S. I. Govindrao, P.W. 16, who was examined on behalf of the appellant says that after a fortnight of the polling day he received a confidential letter from the Dy. S. P. of Jalna Division, enquiring of him whether he had any information with regard to the hiring of tongas on behalf of the candidates in the election. As a result of the inquiry it transpired that only one tonga carried parda nasheen women voters to the polling booth. His inquiry, however, did not disclose the name of Nandu nor of Hari who is another tonga owner on behalf of the appellant himself. Now, if as a matter of fact Nandu or Hari had carried any voters to the polling booth on behalf of the Samiti and if, as already indicated, Nandu's tonga had actually been stopped by a Congress worker surely his name would have been brought to the notice of the police officers who made inquiries. The fact that it was not so mentioned would indicate that what the witness says is not true. The statement of the witness that a Congress-worker had actually asked him as to who was paying for the charges would itself suggest that the suspicions of the Congress worker about the breach of the election laws governing the election had been aroused. If that were so, the Congress worker would have immediately lodged a complaint with the Supervisor but nothing of the kind was done, moreover, during enquiry by the police no person came forward and mentioned the name of Nandu to the officer holding the enquiry. The evidence of Nandu cannot therefore be accepted. The other tongawala whose name we have already mentioned in the preceding paragraph is P.W. 4. He states that his tonga had been engaged by the Samiti for eight days by one Narayanrao on behalf of the Samiti and that he was paid at the rate of Rs. 5/- per day and his tonga also was allowed to be taken from place to place in the town for the whole week and on the eighth day, which was the election day, he took the tonga to the Samiti office at 6 a.m. There he picked up some persons—office bearers of the Samiti and carried them to various polling booths situated in the town. The Samiti leaders finished their rounds of the polling stations by 11-30 a.m., got off at Nabh's Galli in Rehman Ganj and directed him to work as per instructions of a certain Samiti worker. This worker took him to a house of a Muslim near Nathbaba's Galli. There he fixed curtains and then carried some Muslim lady voters to the polling booth at Rehman Ganj. He carried four persons to the polling booth at a time and that he actually made three trips to and from the polling station. He did these trips till 4 p.m. and then took the Samiti leaders back to the office. He received his hire charges at 8-30 p.m. on that day and executed a receipt for Rs. 40/-. That receipt is on record and is Ex P-9. The receipt is in the following terms:—

"My tonga No. 92 has been engaged by you for carrying on your propaganda in connection with the bye-election to the Jalna Constituency at the rate of Rs. 5/- per day. I have received in cash the hired charges amounting to Rs. 41/- from 25th January, 1958 to 2nd February, 1958 including the hire-charges of Rs. 6/- for the first day i.e. 25th January, 1958. Nothing remains due to me. Signed Hari."

The recitals in the receipt are admitted by Hari to be correct. He has also admitted in his cross-examination that nothing has remained due to him. Even if we calculate the hire from 25th January, 1958, it comes to Rs. 41/- for the entire period between 25th January, 1958 and 1st February, 1958, both days inclusive. Therefore, the inference must be that the tonga was not pressed into service by the respondent on the 2nd February, 1958, and that the statement of

Hari to the contrary is false. There is also an inherent improbability in the main story deposed to by this witness. He says that after the Samiti worker, indicated by the leaders whom the witness had dropped in Babbab's Galli, took him to the house of a Muslim near Nathbaba's Galli, he made three trips to and from the polling station carrying Muslim women voters. Now, Hari was not a canvasser or a worker on behalf of the Samiti and could not have been expected to have known whom to carry and whom not to carry. He does not say that each time the Samiti worker brought a group of women voters and seated them in the tonga. On the other hand Hari seems to suggest that he himself took the voters to the polling booth and brought them back. It cannot be believed that a person who is merely a tonga driver and knew nothing as to who the voters were, could on his own have carried out the task entrusted to him by the Samiti worker. It has also been pointed out that he has not even given the name of the worker who had taken him to the house of the Muslim voters and therefore it was not possible for the respondent to confront him with that person. Further, according to him, every time he made a trip to the polling booth he carried the voters right up to the door of the booth. This is, of course, not permissible and yet according to him no one, not even the police constables, stopped him from doing so.

Rameshwar Ladu Ram, P.W. 35, who was the Congress polling agent at booth No. 5, Rahman Ganj, was examined by the appellant as a witness to corroborate the testimony of Hari. This person admittedly lodged a complaint with the Polling Officer on 2nd February, 1958. The complaint is to the effect that some of the Samiti workers were taking their voters in tongas within the boundary of the polling booth. In this complaint it is, however, not suggested that the tongas in which the voters came were hired by the Samiti nor is the name of a single tonga driver mentioned. Ex. P-68 is the endorsement on this complaint and this endorsement appears to have been to the effect the enquiry made from the tonga driver showed that the fare of the tonga driver was paid by the husband of the women who came in the tonga. On the basis of this endorsement Mr. Chandrachud contended that the real complaint was that the voter were brought by the Samiti workers in hired tongas and this was clearly understood by the polling officer to whom the complaint was made. The endorsement does not justify such an inference but it does make a mention of the payment of the charges by the husband of the voters who were brought in the tonga, and that statement may have been elicited by the polling officer from the tonga driver while ascertaining whether the allegation made in the report to the effect that the tonga was brought by Samiti workers is correct or not. If the hire charges were paid not by the Samiti workers but by some one else then naturally the Samiti workers could not be held responsible for the bringing of the tonga within the limits of the polling booth. We, therefore, think that this endorsement does not assist the appellant. Mr. Chandrachud then contended that a tonga which is admittedly used for eight days prior to the date of the polling must not have been discharged by the Samiti workers on the date of the polling, because they must have needed that tonga for being used for legitimate purposes. This is merely an assumption and we do not think that any conclusion could be based upon it. That apart, the receipt signed by Hari conclusively shows the non-engagement of the tonga by the Samiti on the polling day. Rameshwar has said in his evidence that he saw Nandu and Hari several times bringing the women voters from 10 a.m. to 2 p.m. This man was a polling agent and that being so his primary duty was to sit near the polling officer. If he performed that duty it would not have been possible for him to see what was taking place outside. No doubt the witness says that during the time i.e. between 10 a.m. to 2 p.m. he came out of the polling booth twice or thrice. If he did so he could have seen Hari and Nandu on those occasions. If that were so, then he would not have been a silent witness to the happenings. We cannot overlook the omission on the part of Rameshwar to mention in his complaint to the polling officer the employment of hired tongas. Admittedly Rameshwar is an interested witness and in view of the improbability of his having seen anything of the kind, and the improbability of either Nandu or Hari being engaged by the Samiti, on that day for his purpose, we are not inclined to accept what the witness spoke as true.

Then we have the evidence of Sharifabai, P.W. 30. She says that she came in a tonga driven by a Gowli boy, Nandu, along with several women. It may be mentioned that on the date on which she gave evidence in Court she also came in his tonga. She knew this person previously and, obviously, identified him because it was in this very man's tonga that she came to Court that day. She admitted at one stage that she does not know who had engaged the tonga but said at a later stage that the charges for the tonga were paid by the Samiti workers. It is sufficient to say that the latter statement cannot at all be believed

and accepted as true because neither according to the appellant, nor the tonga-wala, the Samiti workers were paying separately for each trip. According to Nandu himself he was paid at 8 p.m. in the Samiti office and this woman could not have witnessed the payment. We may also mention that Sharifabai's name is not mentioned even in the amplification statement and that the women whose names have been mentioned therein have not been examined. We cannot help, therefore, in coming to the conclusion that she is not a witness of truth. As we have already pointed out, while dealing with the evidence of Nandu, S. I. Govindrao Pagre was not able to ascertain the names of either Hari or Nandu during the inquiry. Indeed had these persons been so prominent on the date of the election by making several trips to and from the polling booth their names could not have remained a secret during the police inquiries. Apart from that we would like to point out that Sharifabai's son has stated in categorical terms that his house is at a distance of 150 paces from the polling booth and that, therefore, his mother walked up from there to the polling booth.

As against this evidence there is the evidence of a number of persons examined on behalf of the respondent. Karimuddin, D.W. 89, was the Presiding Officer at the polling booth No. 5, before whom a complaint was lodged by Rameshwar. He says that he received the complaint and made enquiries. From his evidence it would however appear that he did not make proper enquiries at all. Then there is D.W. 8, Ambadas Degdooji, who was the polling agent at booth No. 5. This person refers to the complaint made by Rameshwar and says that enquiries were made by the Presiding Officer. It seems to us, however, that his evidence contains certain exaggerations and cannot be accepted.

Then there is D.W. 6, Mohd. Ismail Hafizji, the second polling agent of the respondent at the aforesaid booth. According to him, the female voters mentioned in the amplification statement are related to him and that they actually walked up to the polling booth because their booth was situate about 50 paces away from the house. Then there is the evidence of Uttamchand, D.W. 5 and Sayed Husain Alias Miyajani, D.W. 7. The former is a Samiti worker and the latter is a Congressman. They say that neither party infringed the rules on the polling day. Manohar Yadawarao Jalgaonkar, D.W. 9, is another person examined on behalf of the respondent. It seems to us that his evidence is wholly irrelevant and cannot be accepted as true.

Though it may be said that apparently at least Nandu and Hari are simpleminded tonga-drivers and therefore are not likely to tell lies, we may mention why we cannot believe either of them. The complaint made by Rameshwar is not sufficient to corroborate the evidence of these two persons. It is true that in fact Hari's tonga was used 8 days before the election. It does not however follow that it was also used on the day of the election for the simple reason that the respondent could not have wanted to run the risk of having his election questioned by using a tonga hired even for legitimate purpose. Mr. Chandrachud in the course of the argument suggested that the production of the tongawala and the women voters before the Presiding Officer in respect of Rameshwar's complaint shows that the respondent was using as hired tonga for carrying his voters, to the polling booth. We fail to see how much an inference can be drawn from these circumstances. The complaint on its face does not refer to the engagement of hired tongas but deals with quite another infraction of rules. The production of the women voters and the tonga driver before the polling officer can easily be explained and does not necessarily lead to the inference that hired tongas must have been used for bringing voters to the polling booth.

For all these reasons we are of the opinion that the appellant has not satisfactorily established the employment by the respondent of hired tongas for bringing voters to the polling booth.

According to the appellant, hired bullock-carts were used at Bhogaon and Watoor for taking women voters to the polling booths. Mr. Chandrachud very candidly admitted that the evidence adduced by the appellant with regard to the use of the bullock-cart at Watoor is not satisfactory and, therefore, he has not pressed his case. He has, however, urged very strenuously that there is ample evidence to show that two bullock-carts were used at Bhogaon for carrying women voters from their houses to the polling booth. Those witnesses are: (1) Abasaheb Bajirao, P.W. 36, who was the polling agent of the respondent, (2) Vishwanath Ganpati Mali, P.W. 37, who was the owner of one of the carts used on the occasion, (3) Rambhau Bapu Wani, P.W. 40, who was the owner of another cart alleged to have been used, (4) Niamatbi Sahebkhani, P.W. 38, (5) Babasaheb Keshavrao, P.W. 39, and (6) Devidas Tukaramji, P.W. 41, another polling agent of the respondent.

Now, Abasaheb's evidence is as follows:—

He was the polling agent of the respondent at Bhogaon and that he had engaged two bullock carts at the instance of the respondent for bringing women voters of Bhogaon to the polling booth. One of these carts belonged to Vishwanath Pangal and the other to Rama Wani, and that he had paid Rs. 5/- to each of them as hire charges. He has further testified that the women voters belonging to his family and the families of Ganeshrao, Rairambhavoo, Baisabeh, s/o Keshavrao, Gafoorbhai, Abdul Karim, Bhikaji Attar and Mehboob, were brought to the polling booth in the carts of these men. Admittedly this witness is not a member of the Samiti nor had he known the respondent previously. It is the case of the appellant that a sum of Rs. 10/- was paid to him by Seshrao Patwari for this purpose. Abasaheb, however, does not refer to Seshrao by name but only says that some worker had given him Rs. 10/- for this purpose. According to him, he had seen the respondent only once and that was at Bori and does not say that the respondent had asked him to engage any carts for fetching women voters to the polling booth. Further according to him a sum of Rs. 10/- was handed over to him at Jintoor by some Samiti worker and that the respondent was not present at that time. He has stated that the Congress-polling agents were present when the women voters were brought from time to time in the carts of Vishwanath and Rama Wani but no one made any complaint either to the Polling Officer or to the Police. No doubt he was a polling agent of the respondent but the story told by him about being asked to engage carts for bringing women voters is difficult to believe since he had not even met the respondent at Bori till after the election. There was thus no occasion for the respondent to give any personal instructions to the witness. Even assuming that the respondent had sent instructions through one of the workers of the Samiti, the witness would at least have remembered his name. Then again according to the witness a number of Hindu women were also carried in the hired bullock carts. No reference, however, to Hindu women being brought to the polling booth was made either in the petition or in the amplification. The witness has admitted in his evidence that Bhogaon consists of 400 or 500 houses which means that it is a small village. If that is so, then it was quite clear that there was no need for employing bullock carts for conveying voters from their houses to the polling booth. The evidence of this witness if of little assistance and was, in our opinion, rightly rejected by the tribunal. The evidence of two alleged cart owners, Vishwanath and Rama Wani, if accepted does lend support to the appellant. Both of them said that no objection was taken to their plying carts between the polling booth and the houses of the voters for bringing the voters in those carts. Both of them appear to be persons of hardly any means and are thus open to be won over easily by interested persons. We may, further, point out that the evidence led on behalf of the respondent does show that one of them had sold his cart and the other his bullock before the election and therefore, neither of them was in a position to ply a bullock cart on the day of the election. This evidence has been believed by the learned Tribunal and we see no reason for rejecting it.

Then there is Niyamatbi, P.W. 38, who says that she went in one of the two carts engaged by Abasaheb and cast her vote for the Samiti. Her name is not in the list of witnesses nor was she summoned to attend through Court. She has admitted that she was asked by Abasaheb to depose that she could cast her vote for the Samiti and went in a hired cart for casting the vote. This admission is sufficient to throw doubt on her veracity.

Then there is Babasaheb, P.W. 39, who has stated that the female members of his family had gone in one of the hired carts to cast vote for the Samiti. The names of the members of the witnesses family who used the bullock carts have not been mentioned in the amplification, while the petition suggests that only Muslim women were conveyed to the polling booth in the hired carts. It seems to us that the statement made by the witness is not true and apparently it is only an after-thought the part of the appellant to say in the amplification that women from some of the Hindu families were also conveyed in hired carts to the polling booth.

Finally, there is the evidence of Devidas, P.W. 41, who was admittedly one of the polling agents of the respondent at Bhogaon. He states that he and Abasaheb had gone to the house of Bhujangrao Vakil who is a Samiti worker sometime before the bye-election. Seshrao Patwari as well as the respondent were there at that time. According to the witness she had gone there at the instance of the respondent but the respondent was not in the house when he visited it. Abasaheb then left the house saying that he had some work in the

town. Shortly afterwards the respondent came and had a talk with him. In his presence the respondent asked Seshrao Patwari to give Rs. 10/- to Abasaheb for engaging carts on hire for carrying women voters to the polling booth at Bhogaon. We have already dealt with the other statement made by the witness on this point and it is not necessary to repeat them. Then according to him the respondent left her with Abasaheb. Sometime afterwards Seshrao Patwari handed over Rs. 10/- to Abasaheb and told him what he was required to do. We do not know what was the precise talk which is alleged to have taken place between the witness and the respondent. Apart from that we think it highly improbable that the respondent would ask a comparative stranger like the Patwari Seshrao to pay money on his behalf to a polling agent. Further more it is difficult to believe that on almost the eve of the election the respondent did not have Rs. 10/- with him for payment to his alleged workers. We, therefore, agree with the tribunal that Devidasrao's evidence is not worthy of credence.

Considering the entire evidence on the record we have no doubt whatsoever that the appellant has failed to prove satisfactorily that hired bullock carts were used for conveying voters to the polling booth at Bhogaon.

Before we go to the most important issue raised in this case we would briefly refer to issue No. 11, which is to the effect that the respondent induced the patel and the patwaris of the village Dhakephal during his visit to the village Ghansawangi to misdirect the voters of that village with the result that they did not exercise their franchise at all. The allegation in this regard is set out thus in the election:—

"The respondent visited the village (Ghansawanji) taluka Ambad where he called the village officers of the village Dhakephal which is about 2 miles from the said constituency. The respondent asked them as to how many voters from Dhakephal could vote for him. The said village officers, i.e., patel and patwari informed him that nobody from their village can vote for the respondent. Thereupon the respondent conspired with the patels and patwaris of the village Dhakephal and successfully induced them to misdirect the voters. The said village officers informed the voters that they are not entitled to vote in this bye-election with the result that not a single voter turned up at the polling booth Ghansawanji. Thus, with the tactfully acquired service of patel and patwari of one village the respondent deprived the petitioner of near about 300 votes."

This statement is, of course, denied by the respondent. We would also like to point out that there is a divergence between pleading and proceeding on the point.

Maroti Ashru Mahar, P.W. 66, has deposed as follows:—

"Shri Ankushrao Ghare told them that on the day of polling they should not go to the village Masegaon. He told them that village Dhakephal is not included in polling booth Masegaon, so the villagers should not go to cast vote. He also told them that if voters intend to vote for Samiti candidate they could go, otherwise they should not. The village officers called the villagers one day before the polling and told them that Shri Ankushrao Ghare had threatened them not to go to Masegaon, so the villagers should not go to village Masegaon for casting votes. On the instructions of the village officers the villagers did not go for voting."

Even in cross-examination, Maroti has stated:

"It was proclaimed on beat of drums one day before the polling in the evening that we villagers of Dhakephal were not permitted to cast vote and we should not go for voting."

Apart from the extreme improbability of the respondent calling village officers and conspiring with them in the manner set out above as also the improbability of village officers who were not known or shown to be in any way beholden to or under the influence of the respondent being ready and willing to do his bidding, we would like to point out that there is a distinction between voters being told that they are not entitled to vote and voters being prohibited from voting. The case as set out in the pleading is that the voters were told that they were not entitled to vote. The case that is sought to be proved is that the voters were told that they should not exercise their franchise. In these circumstances we

would be perfectly justified in completely ignoring the evidence of Maroti. We would, however, point out in addition that the witness is a man of no substance, that his name was not on the list of witnesses submitted by the appellant and that he was not summoned to appear. Apart from Maroti, the appellant has examined Abdul Ali, P.W. 67. He says that the villagers of Dhakephal did not go to Masegaon to cast their votes there because the village officers had proclaimed by beat of drums that Dhakephal was not included in the Masegaon polling booth. His evidence contradicts the evidence of Maroti as to contents of the proclamation. His evidence though it is in conformity with the pleadings is hardly sufficient to justify the finding that the respondent through the agency of the patwari and patel deliberately misdirected the villagers of Dhakephal in the matter of exercising their franchise. On the whole we are of the opinion that the finding given by the tribunal on the question is correct and must be upheld.

Before dealing with the sixth issue we think it convenient to deal with the seventh issue which concerns the holding of public meetings at Jalna, Partur, Sailu and Ambad, in which Mr. P. K. Atre is said to have referred to the Urdu pamphlet, Ex. P-1. The precise pleading on the point appears in para. 4(d) (vi) of the petition and is as follows:—

“Shri P. K. Atre of Bombay addressed public meetings (on each) at Jalna, Partur, Sailu and Ambad, in which he publicly referred to the contents of the above pamphlet and urged his listeners to vote for Samiti on the grounds mentioned therein. He also stated in all these meetings ‘you will soon get this in the form of pamphlet issued by us’. Respondent who also attended these meetings spoke after the principal speaker, i.e., addressed to them.”

The respondent in his written statement has referred to this allegation in para. 2(d) (6) and stated as follows:

“The respondent denies that Shri P. K. Atre of Bombay or himself ever referred to the contents of any such alleged pamphlet or urged his voters to vote for Samiti on the grounds mentioned therein in their speeches at any place or at the places alleged in the para. The respondent or Shri P. K. Atre never referred or said that all the contents of the alleged pamphlet would be circulated in the form of a pamphlet.”

There is no express denial here that Mr. P. K. Atre had addressed certain meetings on behalf of the Samiti and in the interest of the respondent and thus became the respondent's agent. On the other hand it is said on behalf of the respondent that there was no need for a specific denial of this kind because the averment itself is not specific and clear on the point. It may be that the averment suggests that Mr. Atre who addressed the meetings in the presence of the respondents can be regarded as the agent of the respondent but that would be only a legal inference to be drawn from these facts and, therefore, there was no occasion to make any express denial.

Before dealing with the evidence concerning the four meetings we would reproduce *in extenso* the entire pamphlet, Ex. P-1:—

“An appeal by women in the name of humanity.”

“There is a direct fight between Congress and Samyukta Maharashtra Samiti in relation to the bye-election to Parliament. The demand of Samyukta Maharashtra is the demand of right and justice. It is a public necessity and the demand of the people. It is necessary to support—Samyukta Maharashtra Samiti in order to achieve this demand and building up of better and welfare future; and deliver a blow to conservative and declining power of Congress.

Simultaneously the question of the personal character of the candidate also arises and it is essential to compare them. The candidate of Samyukta Maharashtra Samiti . . . Shri Ankushrao Ghare, B.A., LL.B., Advocate (Partur) is a man of good nature, character and sympathetic. It is evident from his record of five years in Hyderabad Assembly that he raised his voice effectively for poor and working class people and on the problems of minorities; irrespective of caste and creed. On the other side is Shri Baba Saheb Sawanekar on behalf of Congress about whom it is confidently said that he by

taking undue advantage of circumstances inflicted enough suppression and atrocities. Particularly he made the minority community the target of his lust; and laid his hands on some respectable, helpless and unprotected ladies and kept them in his possession.

"We question every voter in the name of humanity and respectability whether they (voters) by supporting such a Congress candidate would like to end support to vices and whether they have any feelings conscience and self-respect?

"We are quite certain that every male and particularly all women will give shameful defeat to such a Congress candidate."

"On behalf of ladies, Hingoli."

It is not disputed before us that the allegations contained therein respecting the appellant are defamatory. We will consider presently the question whether these allegations are false or whether they were believed by the respondent to be false. It is sufficient however, to state here that when we asked Mr. Nandapurkar to say what position the respondent wishes to take with regard to these allegations in the appeal, he stated that he does not wish to concede that the allegations are false or were believed to be false by the respondent but that he does not seriously urge that they are or must be true.

We may conveniently mention here that the respondent denied in his written statement having at all seen the pamphlet, Ex. P-a at any time prior to the filing of his written statement. His precise pleading on the point is—

"The respondent further submits, as the alleged pamphlet was neither appended to the petition nor its copy supplied to the respondent, the petitioner is disentitled from relying on the same and all these allegations should be struck off the petition. The respondent denies that he or his agent ever printed or published any such alleged pamphlet or ever circulated it in the constituency through his Election machinery as alleged."

In his evidence the respondent has said in answer to a specific question as follows.—

"I came to know about the pamphlet only when I received the copy of the election petition. Before that I was not aware that such pamphlet was published and circulated, so there was no occasion for me to contradict it."

Later in his evidence he has said as follows:—

"I perused the Urdu pamphlet, Ex. P-I, at Parbhani in the Court before filing the written statement with Shri Telbarao Gavane, for the first time."

And then again he stated:—

"I came to know about the pamphlet only when I received the copy of Election petition and perused the file."

Thus in short his case is that he was totally unaware of the pamphlet during the election campaign. Whether we should accept this statement or not is a matter with which we will deal hereafter.

We now proceed to consider the evidence led by the appellant with regard to the holding of meetings at the four places mentioned above. Now, according to him Mr. Atre addressed a public meeting at Partur on 30th January 1958 at about 9 or 10 A.M. Then he addressed another meeting in the evening of the same day at Sailu. On 31st January 1958 Mr. Atre addressed a public meeting at about 8 P.M. at Ambad and finally addressed a meeting at Jalna which commenced before midnight on 31st January 1958 and ended after midnight that is, in the early hours of 1st February 1958. It is not disputed by the respondent that the meetings were held at all these places and that Mr. Atre addressed them. He, however, denies that Mr. Atre made any reference whatsoever to Ex. P-1 at any of these meetings and further denies that the Jalna meeting went on beyond the midnight of 31st January 1958. Mr. Chandrachud very fairly admitted that the evidence to the effect that the Jalna meeting continued after midnight of 31st January 1958 is not satisfactory and that he would, therefore, not press it for our consideration. Similarly, he stated that the evidence

let on behalf of the appellant with regard to the reference to Ex. P-1 at the Sallu meeting is also not satisfactory and, therefore, he would not press it for our consideration.

The question, therefore, which we have to consider boils down to this. Whether at the meetings held at Partur, Ambad and Jalna Mr. Atre made a reference to Ex. P-1 and its contents.

The meeting at Partur was presided over by one Mr. Yeshwantrao *alias* Daji Saheb Deshpande, Pleader of Partur. He has unfortunately not been examined by the other side. The witnesses on behalf of the appellant who deposed about this meeting are Sayed Ikramali, P.W. 22, Rangnath Maruti Bengale, P.W. 57, Miyajan Deshmukh, P.W. 18, Mis Baheuddin, P.W. 12, Fath. Mohd., P.W. 21, and Abdul Rahmankhan, P.W. 59.

The most important witness amongst this group is Sayed Ikramali, not merely because he is a Pleader but because during the election he has admittedly worked on behalf of the Samiti, he was in fact the polling agent of the respondent, at one of the Partur polling booths. He has stated in his evidence that during his speech Mr. Atre levelled serious allegations against the Congress organisation, the Congress Ministers and the Congress candidate. According to him, Mr. Atre said that the appellant, Babasaheb Sawnekar is a person of bad character and added, "He had told something about the ladies in connection with the bad character of Shri Baba Saheb Sawanekar. I do not remember exactly what he had spoken. As Shri Baba Saheb is of bad character, one should be ashamed to cast vote for him." He has not said that Mr. Atre told the audience that the allegations concerning the appellant will soon appear in a pamphlet and the pamphlet will be distributed amongst the voters. Assuming, therefore, that Mr. Atre did refer to the character of the appellant in a derogatory manner, his evidence does not help the appellant. It is necessary to mention that the appellant has not based his petition even partly upon the ground that Mr. Atre made false and defamatory statements concerning his character at the meeting addressed by him. We are, therefore, not called upon to consider whether the election should be set aside on the ground that Mr. Atre who was undoubtedly addressing public meetings on behalf of the Samiti and in the interest of the respondent made statements regarding the character of the appellant which were false or known by him to be untrue. The tribunal has discarded the evidence of Ikramali on the ground that the statements made by Mr. Atre concerning the character of the appellant were not contradicted by Mr. Yeshwantrao Chavan, the Chief Minister, in the public meeting addressed by him. We must point out that the reason given by the tribunal is unsound because no meeting was addressed by Mr. Chavan subsequent to any of the meetings addressed by Mr. Atre. In point of fact the tour of Mr. Chavan ended a couple of days before Mr. Atre's arrival in the constituency. However, it is not necessary for us to consider whether what the witness has said is true or not because, as already stated, his evidence does not bear upon the point which we have to consider in this issue.

Rangnath Maruti Bengale, P.W. 57, says that he also had attended the aforesaid meeting and that Mr. Atre made derogatory reference to the personal character of the appellant. However, according to him Mr. Atre stated "that in proof of it in one or two days a pamphlet would come before them." Later in his evidence he stated "Shri Ankushrao Ghare spoke in his speech that Shri Atre had stated all the facts in his speech and the public should judge the candidate from his speech and he also spoke that the pamphlet would come before the public in support of Shri Atre's speech." His evidence is certainly an improvement upon the evidence of Ikramali. Apart from the fact that Ikramali does not attribute to the respondent the statement that a pamphlet in respect of Mr. Atre's speech will be shortly circulated. Reading his evidence as a whole it would seem that he deposed like a parrot. In fact as admitted by him he worked on behalf of the Congress at the bye-election. In addition it may be mentioned that he has been the Vice-President of the District Development Board from a time prior to the bye-election. Before that he was the President of Aundh Circle branch of the Congress and member of the working committee of the Hingoli Taluka Congress Organisation. The appellant belongs to the same taluka and appears to have been closely associated not only with the local Congress organisations but also with the District Development Board. Because of these circumstances and also because the witness did not report to the police about the distribution of Ex. P-1, not report even to the Congress office that Hashamatli distributed the pamphlet his evidence did not find favour with the tribunal. We think that the tribunal was right in rejecting his evidence.

So far as the next witness, Miyajan Deshmukh, P.W. 18 is concerned, we have already refused to act upon his evidence and we have given our reasons for doing so. He is an ex-Razakar, a person of bad character and a bully and has a grievance against the Peasants & Workers Party from which he was expelled. According to him, he had attended the Partur meeting and also addressed it just after Mr. Atre. No doubt he is supported in this by Rangnath but we are not prepared to believe his statement. Apart from the fact that the credentials of the witness are worthless, we must point out the improbability of a person expelled from the party which was a constituent of the Samiti addressing a public meeting along with prominent leaders of the Samiti. The Tribunal has discarded his evidence as unworthy of belief and we agree with it.

Then there is Mis Bahuddin, P.W. 12. He says that all that he remembers is Mr. Atre's remarks concerning the character of the appellant. He does not, however, say that Mr. Atre had stated that the pamphlet in support of the statements made by him would be shortly circulated. His evidence, therefore, is of little assistance to the appellant. Apart from that it may be mentioned that the respondent is a lawyer and had appeared against the witness in a certain litigation. This witness had thus some grievance against him. It is for this reason Mr. Chandrachud did not wish to command the evidence of this witness to us. We, therefore, discard his evidence.

Fateh Mohd., P.W. 21, says that he attended the meeting at Partur which was addressed amongst others by Mr. Atre. According to him, Mr. Atre stated that the appellant had kept some Muslim ladies by force in his house subsequent to the Police Action and has taken undue advantage of them. He further stated that Mr. Atre told the audience that within two or three days a pamphlet concerning the matter would be circulated amongst the public. According to him Atre spoke in Urdu which is false. On this one ground alone we think the evidence of this witness should be discarded. Apart from that there is one more ground which is referred to in the judgment of the tribunal. According to the various witnesses examined in the case Mr. Atre while comparing the educational qualifications of the appellant and the respondent gave a simile of a young girl who has to choose between two persons, an educated one and an uneducated one. Fateh Mohd. pretends to have heard and understood the whole speech but he made no reference to this simile in his evidence. This according to the tribunal would clearly show that Fateh Mohd. never attended the meeting. There is some substance in the view taken by the tribunal and we think that on that ground also the evidence of the witness ought to be rejected.

Finally, there is Abdul Rehman Khan, P.W. 59. His name is not mentioned in the voters list and this is a circumstance which has to be considered while evaluating his evidence. According to him also Mr. Atre, after making derogatory remarks concerning the appellant, said that in the near future a pamphlet referring to this matter would be distributed shortly. According to this person, the pamphlet was distributed by Hashamali whom he has known from his childhood. The learned Counsel for the respondent pointed out to Shri Tilwat Ali, Pleader who was present in court and asked the witness whether he has Hashamali and the witness said that he may be Hashamali. It would thus appear that the witness made very irresponsible statements and is consequently not entitled to be believed. This is one of the reasons why the evidence of this witness was rejected by the tribunal and Mr. Chandrachud very fairly said that in the circumstances he did not want to press it for our acceptance.

It will thus be seen that the evidence led on behalf of the appellant for establishing that Mr. Atre had referred to Ex. P-1, and said that it would be published and circulated shortly afterwards is not satisfactory. We, therefore, hold that the appellant has not established that Mr. Atre made a reference to the pamphlet at the Partur meeting.

Now, we will refer to the evidence regarding the meeting held at Ambad on the next day. Only one witness has been examined on behalf of the appellant and that is Haji Saleh alias Chaus, P.W. 34. This witness no doubt states that Mr. Atre made derogatory remarks regarding the character of the appellant in the meeting and also referred to the appellant having kept two Muslim girls in his house. He did not say that Mr. Atre stated that an Urdu pamphlet would be published and circulated shortly, repeating these allegations. After the witness had deposed about several other matters a leading question was put to him, "What he said about Parcha?". To that he answered, "He said that

what I had spoken orally would be supported by a pamphlet, which would be coming the next day." In our opinion, the question should have been disallowed. The fact deposed to is no doubt relevant but since it was elicited only after leading question was put to the witness we are not prepared to accept the statement as true. Apart from that we must point out that his son is a "Congress leader" as admitted by him. It is, therefore, possible that he may be having a soft corner for the Congress organisation. Now, according to him, after the public meeting was over, 10 to 20 Muslim ladies had collected in his house and were addressed by some Samiti workers. We are not inclined to accept this story because it is highly improbable that a person who is a father of a "Congress leader" would allow his house to be used by the opponents of the Congress. Further, he admits that he did not hear the speeches of the persons who had addressed the meeting. He also admits that neither his wife nor any other women who had attended the meeting gave him a gist of the speeches made at the meeting. Yet he has purported to give a gist of the speeches made at this meeting. When he was questioned as to how he came to know about it he stated, "But on the way while they were coming to my house they had a talk with me and they had told me that they would explain to the Muslim ladies as stated above." This would indicate that he is quite an intelligent witness and is able to give an explanation on the spot. It is unsafe to rely on the testimony of such a witness and we reject his evidence. The respondent himself and one of his witnesses, D.W. 44 Bakshishusain Fida Husain, deny that Mr. Atre made any reference in the meeting to the character of the appellant. Thus, the evidence of the witness Haji Saleh stands condemned. Agreeing with the tribunal, we, therefore, hold that the appellant has not established that at the meeting held at Ambad Mr. Atre made a reference to the Urdu pamphlet in his speech.

Now, remains the meeting at Jalna. With regard to this meeting the evidence led by the appellant consists of that of Gulam Mohamed, P.W. 19, Remoshwar Ladu Ram, P.W. 36, and Miyakhan, P.W. 14. Ghulam Mohd., P.W. 19, deposed that Mr. Atre compared the character of the two contestants and stated that "He spoke also that Baba Sahab's character is not good and asked the public to cast vote after due consideration. He spoke in his speech that the petitioner kept forcibly two or three Muslim ladies in his house and he spoke so many other things against Congress". He then added that Mr. Dange who was also present at the meeting stated that the appellant had kept two or three Muslim ladies and that, therefore, the Muslims should not vote for him. The witness then specifically stated that "Shri Atre also had spoken that within two or three days one pamphlet would also be circulated among the public by Samiti workers and his statement would be supported by the said pamphlet". The witness has stated that he did not work in the bye-election. He further stated that he is a Vice-President of Jalna City Municipality. Clearly, therefore, he is interested in the appellant. In the circumstances we find it hazardous to accord any value to his testimony.

The second witness on the point is Rameshwar, P.W. 35. He was the polling agent of the Congress at booth No. 5. He is also an interested witness. Now, Rameshwar attributes derogatory statements concerning the character of the appellant not merely to Mr. Atre but also to Mr. Dange and Mr. Deshpande. He thus goes a step further than the others and very much further than the petitioner himself. Apart from this there is the fact that his name is not mentioned in the list. We would, therefore, hesitate to act upon his evidence.

Finally, there is Miyakhan, P.W. 14. According to him, Mr. Atre after comparing the character of the respondent with that of the appellant said that "....Shri Baba Sahab Sawnekar had kept in his house two Muslim ladies and he said that what he had spoken orally would come before the public in pamphlet's shape". The witness then said that he had received the pamphlet on the date of the polling. He knows Urdu and according to him he actually read the pamphlet. He stated categorically that it was mentioned that it was published on behalf of the Samiti. This is clearly false unless the witness was in fact referring to Ex. D-46, which is admittedly a different pamphlet from the one containing false or defamatory statements. We would, therefore, not be justified in placing any credence on his evidence.

We have, therefore, no hesitation in holding that the appellant has not established that Mr. Atre referred in his speech at Jalna to the character of the respondent. The publication of Ex. P-1. Thus, in our view the finding of the tribunal on issue No. 7 is correct and accordingly we uphold it.

Now, we come to the last point and in our opinion, the most important one. We have already quoted the issue and in substance it is whether the respondent himself or through his agents or workers got Ex. P-1 printed, published and circulated in the Jalna constituency on the polling day. There are thus three aspects of the issue and we will deal with each of them separately.

The question to be first considered is about the drafting and printing of Ex. P-1. In so far as the drafting of Ex. P-1 is concerned the only evidence we have in that of Ramrao Aurgaonkar, P.W. 68. We may pointed out at the outset that his name is not in the list of witnesses though he was eventually summoned through the Court. He admits that he is a worker of the Congress Party but according to him, prior to his joining the Congress, he was a worker of Shekari Kamgar Paksha, i.e., of the Peasants and Workers Party. He was put forward as a candidate for election to the District and Local Board, Bhil on behalf of the Peasants & Workers Party and was eventually elected. After his election he changed sides, went over to the Congress and with the support of the Congress he was after his evidence in the court below was recorded, elected in May 1957 to the Local Board after the bye-election. Prior to his election as a President, a person belonging to the Samiti was functioning as a President of the Board. A vote of no-confidence having been passed against him he was removed from his office and a re-election was held for filling the office of the President. It was at this juncture that the witness was put forward as a candidate on behalf of the Congress and was elected. It would thus be clear that at the time of giving the evidence the loyalties of the witness were towards the Congress organisation and consequently his evidence can be characterised as partisan evidence and should be approached in that light. He has stated that the pamphlet, Ex. P-1, was drafted at the Samiti office at Jalna and that on that occasion Messrs. Ankushrao Ghare, Iftikhar Ahmed and himself were present. He claims to have told the respondent that it would not be proper to defame the appellant by making the false allegations against him. But he was told by the respondent that though he knew that the allegations were false it was usual during elections to make such allegations.

Apart from the fact that the witness is not corroborated on the point and that he is a partisan witness, we must point out that the story told by him is improbable and cannot be readily accepted. He is a resident of Bhil and it would be an unusual and a difficult thing to expect his presence at Jalna when the pamphlet was drafted. He used to be an M.L.A. in the past and is apparently a politician of some importance. He does not say that he had been sent to Jalna especially for drafting the pamphlet or for doing any particular work in connection with the election. Even, according to him, he used to be called to Jalna only if an important meeting was held there. He does not say that any such meeting was held round about the 20th of January 1958. When the pamphlet was alleged to have been drafted. According to him the pamphlet was drafted at the Samiti Office at Jalna. If the witness was unhappy over the contents of the draft he would have kept himself completely aloof from its printing and publication and distribution. He, however, says "It was printed. I personally and through workers of Samiti distributed the said pamphlet among the public." The absence of a satisfactory explanation or indeed any explanation at all of the contradictory conduct of the witness is also a circumstance which must be borne in mind while judging his evidence. There is also one more point which we must mention and it is that there is no reference at all to the alleged part played by the witness in drafting the document in the petition or in the statement of amplification. We cannot overlook the fact that while deposing about the drafting of Ex. P-1, he has assigned to himself a virtuous role, while a little later he has admitted that he has done something which is not in keeping with it. Considering all these matters it would, therefore, be hazardous to base any conclusion on the sole testimony of such a witness.

Even though we have rejected the evidence of Ramrao, the question remains whether the respondent was instrumental or concerned personally or through the agency of any one in getting Ex. P-1 printed. The name of the press in which it was printed has not been, as already pointed out, mentioned in the pamphlet. Indeed considering the contents of the pamphlet it was only to be expected that the press which printed it would not owner it up by setting out its name at the foot of the pamphlet.

According to the appellant this pamphlet was printed at the Kailash Printing Press and that the order for printing it was placed with this press on 20th January 1958 by the respondent, who had visited the place along with Iftikhar

Ahmed, P.W. 37. In support of this contention reliance is placed upon the evidence of Sadashiv, P.W. 20, and on Ex. P-75, which is the relevant portion of the order book maintained by the press.

Sadashiv has deposed as follows:—

"I had been to Samiti Office to book the printing orders. I had a talk with Shri Ankushrao Ghare, and asked him to give printing work to me. He said that he got the printing work done at some other printing press, but if I would do some Urdu printing work it would be given to me."

It may be mentioned that only two presses in the Jalna town print matters in the Urdu script. One is Kailash Printing Press and the other is Gangasagar Art Press. According to the witness the respondent showed him one symbol and the draft of the hand-bill which was proposed to be printed. He then said that in fact two drafts of handbills were shown—one of which was on behalf of the 'Khavatin'. The respondent told him that the drafts of the handbills and the symbol would be sent for printing through Iftikhar Ahmed. After some further talk took place. The respondent eventually sent through Iftikhar Ahmed the draft of the handbill which was on behalf of the 'Khavatin'. Iftikhar Ahmed then placed an order for printing this handbill and signed in token of doing so in the order book. This was on 20th January 1958. According to the witness, Iftikhar Ahmed placed an order for 2,000 copies at the rate of Rs. 14-12-0 per thousand. The witness identified Ex. P-1 as the document of which he had been shown a draft which was eventually printed. In his cross-examination, Sadashivrao admitted that he had taken an order for printing another pamphlet from the Samiti office but said that that pamphlet was got printed by him at the Gangasagar Art Press. The document in question in Ex. D-46 and it is mentioned therein that it was printed at the Gangasagar Art Press through the Kailash Printing Press.

The respondent's case is that what he got printed through Sadashivrao was Ex. D-46 only and that he knows nothing about the Ex. P-1. The case of the appellant as would appear from the pleadings and the evidence on the other hand is that both the Exhibits, P-1 and D-46, were got printed by the respondent or his agents. No reference to Ex. D-46 has been made in the written statement and, therefore, there was no question of the appellant making any pleading with respect to it. Indeed no question was even put on behalf of the appellant during his examination-in-chief about Ex. D-46 and that was because the appellant did not know anything about it. Ex. D-46 was brought on record for the first time during the cross-examination of Sadashivrao. No doubt Sadashivrao in his examination-in-chief has stated that two drafts were shown to him by the respondent when he went to the Samiti office for securing orders for printing election literature. But the point was not pursued any further by the appellant's counsel evidently because he did not realise the importance of the matter.

As already stated the order book shows that the order for printing a certain handbill was placed with the Kailash Printing Press on 20 January 1958 by Iftikhar Ahmed. When the respondent was questioned regarding the matter, he stated that Ex. D-46 was printed at the Gangasagar Art Press through the Kailash Printing Press. When he was questioned regarding the draft of Ex. D-46, he stated that he does not know whether it was preserved by Shri Waghmarey, through whom, according to him, all the orders of printing were placed by the Samiti. He then stated that there should be a draft with the Gangasagar Art Press as it was printed at that press. He had placed the order with the Kailash Printing Press and he paid the advance also to him. He further says that Ex. P-76 is a receipt of the payment of the charges for printing Ex. D-46, to the Kailash Printing Press. Then he added "I cannot say whether the order dated 20th January 1958 was placed by Samiti as all the orders of printing were placed by Shri Narayanroo Waghmare. I cannot say whether the signature of Iftikhar in column No. 13 against the said order is of Iftikhar Ahmed." He evidently made this statement when he was confronted with the order book, Ex. P-75, which clearly shows that Iftikhar Ahmed had placed an order for printing 2,000 copies of some pamphlet. In the arguments advanced before us and in the arguments advanced before the tribunal the contention of the respondent has been that this order relates to the printing of Ex. D-46 only. On behalf of the appellant, however, it was urged before the tribunal and is also urged before us that this order relates not to Ex. D-46 but to Ex. P-1. In support of his contention that this order does not relate to Ex. D-46, Mr. Chandrachud has

drawn our attention to the following statements made by the respondent in his evidence:—

"The order for printing of Urdu pamphlet marked Ex. D-46 was placed on 23rd January 1958 and the money was also paid on the same date. The full amount of the printing was paid on—23rd January 1958. The pamphlet was printed also on the 23rd January 1958, on which date the order was placed."

According to Mr. Chandrachud this admission made by the respondent would clearly show that not one but two orders were placed by the respondent or on his behalf for printing the Urdu pamphlet in connection with the respondent's election campaign. Since, according to the respondent, the order for printing Ex. D-46 was placed on 23rd January 1958, the order in the order book Ex. D-75 cannot possibly relate to Ex. D-46, but must relate to some other pamphlet. It is not the respondent's case that any other pamphlet (that is other than Ex. P-1 and Ex. D-46) was got printed by him through the Kailash Printing Press and, therefore, though the respondent denies it, the inference must be that that order must relate to Ex. P-1, and nothing else. It was suggested by Mr. Handapurkar on behalf of the respondent that the witness was apparently making a mistake when he mentioned 23rd January 1958 as the date on which the order for printing Ex. D-46 was placed. He pointed out that the respondent was not himself concerned with the placing of orders because such orders were placed by Narayanrao Waghmare, who alone can, therefore, have personal knowledge about the exact date on which a particular order was placed. The difficulty, however, is that this is not an explanation which the respondent has given. If the respondent had made any inadvertent mistake while deposing, it was the duty of the lawyer or the counsel to re-examine him and have the matter clarified. In the absence of any clarification it is not possible for us to accede to the argument advanced by Mr. Nandapurkar. The respondent had categorically at three places mentioned the date as 23rd January 1958. The order was placed, according to him, on 23rd January 1958. The printing was completed on 23rd January 1958 and the charges were paid on 23rd January 1958. He is also emphatic in saying that the printing was completed on the very day on which the order was placed. There is, therefore, no ground for inferring that there was any confusion in the mind of the respondent when he made the aforesaid statements. Now, the receipt of money passed by the Kailash Printing Press which is placed on record, Ex. P-76 does not bear the date 23rd January 1958 but it bears the date 24th January 1958. This receipt is admittedly produced by the respondent. He has not been able to explain why, if this receipt relates to the printing charges for Ex. D-46, it bears the date 24th January 1958 and not 23rd January 1958. *Prima facie*, therefore, this receipt cannot properly refer to the printing charges paid by the respondent or by the Samiti for printing Ex. D-46. Since the receipt is in favour of the respondent, it must necessarily refer to the payment made by him in respect of the printing of some matter for him other than Ex. D-46. As already stated, the respondent denies having got any other matter printed through the Kailash Printing Press which has passed the receipt in question. On behalf of the appellant, however, it is contended that it must refer to Ex. P-1.

We have already set out *in extenso* the document Ex. P-1. It is in the nature of an election propaganda made in favour of the respondent. It contains serious and defamatory allegations against the appellant. Further, it warns the voters against voting for the appellant and invites them to vote for the respondent. On the face of it, therefore, this document must be deemed to have been printed and published in the interest of the respondent.

The only direct evidence adduced by the appellant for establishing the connection between the respondent and Ex. P-1 is that of Ramrao Aurangabadkar, P.W. 68, and Sadashivrao P.W. 42. As already pointed out Ramrao's evidence in so far as it is to the effect that the document was drafted in the Samiti office by some Samiti workers in his presence and in that of the respondent cannot safely be acted upon in the absence of corroboration. The question is whether there is any sufficient reason for rejecting the evidence of Sadashivrao. He has stated clearly that the order for Ex. P-1 was placed with him on 20th January 1958 by Iftekhar Ahmed. It is an admitted fact that Iftekhar Ahmed is a member of the Samiti and had worked in the elections for and in the interest of the respondent. Iftekhar Ahmed was also present, according to Sadashivrao, whom he went to the office of the Samiti for soliciting printing orders from the Samiti. He was shown two drafts of Urdu pamphlets and one of them was on behalf of the 'Khavateen'. This clearly refers to Ex. P-1. If, therefore, we

accept the evidence of Sadashivrao then the connection between the printing of Ex. P-1 at the Kailash Printing Press and the respondent will have been fully established. There is no suggestion in the cross-examination of Sadashivrao to the effect that the order Ex. P-75 and the receipt Ex. P-76 relate to Ex. D-46, except perhaps when questions were put to him about the sizes of the two pamphlets, Ex. P-1 and Ex. D-46. We shall deal with those questions presently.

There are several reasons why we think that the evidence of Sadashivrao should not be rejected. In the first place he does not seem to be interested in one political party or the other. Then again he admits having printed an objectionable document, i.e., a document which will render him liable to prosecution at law. One would not expect a person to make a false confession of an offence unless, of course, he were to expect a good return for doing so. There is no suggestion in the cross-examination of the witness to the effect that Sadashivrao was making a false admission of an offence with a view to secure some kind of benefit for himself. Thirdly it is apparent from the evidence of Sadashivrao that he has been receiving large orders from the Congress organisation for printing literature in connection with various elections from time to time. He would not make a false statement lightly which would ultimately prejudice his securing further custom from the Congress. On the other hand it seems likely that being required to make a statement on oath he had to tell the truth even at the risk of incurring the displeasure of the Congress Organisation at Jalna and losing its patronage. Then again it is an admitted fact that Ex. D-46 was printed at the Gangasagar Art Press. The printing charges in respect of it must, therefore, have been paid to that press. Similarly, a formal order of printing that document must have been given to that press. Therefore, after the examination of Sadashivrao, it was necessary for the respondent to examine the proprietor or the manager of the Gangasagar Press and to require him to produce the order-book or the receipt-book of that press in order to rebut the evidence of Sadashivrao. Not only did he refuse to do so but when he was questioned during his cross-examination as to what he proposed to do, he stated that he did not intend to disclose the names of the witnesses before hand. He was then asked a pointed question, "You have submitted your list of witnesses pertaining to Jalna town, so can you say whether any witness of Gangasagar Press is mentioned in it?" To this he answered, "I am intending to examine about fifty witnesses of Jalna and as it was not possible for the Court to examine so many witnesses in this sitting, so I have given a list of 37 witnesses and have called them through the Court". He then evaded disclosing his intention of examining any witnesses connected with the placing of the order.

It is to be borne in mind that though it is the respondent's case that both Exs. P-75 and P-76 relate to Ex. D-46, there is no reference either in Ex. P-75 or in Ex. P-76 to the Gangasagar Press. It was to be expected that if the order was executed through the Gangasagar Press a reference would be made thereto,—if not in the order, at least in the receipt. The absence of such a reference militates strongly against the inference that these documents relate to Ex. D-46 only.

Now, regarding the size of the pamphlets Ex. P-1 and Ex. D-46, the order Ex. P-76 is for printing 2,000 copies of an Urdu hand-bill, size one-fourth at the rate of Rs. 14/- per thousand. The size of Ex. P-1 is admittedly one-eighth. The order does not specifically mention that the pamphlet is to be printed on both the sides. Ex. P-1, is however, printed on both the sides. The size of Ex. D-46 is one-fourth. It is also printed on both sides. It was, therefore, contended on behalf of the respondent that Ex. P-76 can more appropriately refer to Ex. D-46 rather than to Ex. P-1. Sadashivrao was in fact questioned about it and he has deposed "As Ex. P-76 and Ex. P-1 are printed on both sides, double-size paper was put on the machine, which amounts to 1×4th size". Mr. Chandrachud has explained further what the witness meant regarding Sadashivrao's evidence. According to him paper of one-fourth demi size was used. After it was put in the press on half of it would be printed the matter which was to appear on the front of the handbill and on the other half the matter which was to appear on the reverse. Thereafter the same paper was to be put in the press and the matter which was to appear on the reverse would be printed on half the paper and that which was to appear on the front on the other half. Thereafter the pamphlet would be cut into two. Therefore, 2,000 sheets of one-fourth demi size were used. After cutting them 4,000 sheets of one-eighth size would be obtained. The explanation given by Mr. Chandrachud appears to be a reasonable one and can be accepted as correct. It is

also borne out to a considerable extent by looking at Ex. P-76 itself. In this connection we may refer to the evidence of Nagnath, D.W. 36, which is in the following terms:—

"If the matter is to be printed on both sides on 1/8th size paper, then a paper of one-fourth size is put on the machine and on half of the paper one side of the pamphlet is printed and on the remaining half the other side of the same pamphlet is printed and then the printed matter is again re-printed on the reverse side in the manner and afterwards they are cut into two pieces. On the compositor's plate both the sides of the pamphlet are composed simultaneously."

It will be remembered that in Ex. P. 75 the order placed was for printing 2000 copies of one fourth size. Now the receipt Ex. P. 76 runs thus:—

"Kailash Printing Press Jalna.

Dated 23rd January 1958.

Voucher No. 101.

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Calenders, Daily accounts, Bahikhata, Manufacturers of Bahi Puthas i.e. technical Printer.
Shriman Ankushrao Ghare Jalna.

Details	Number	Rate	Amount
	Rs.	Rs.	Rs.
Urdu Handbills 1 x 4 Two thousand.	2,000	13	26
Double printing	2,000	3	6
Total	..	..	32
Sd/- on Revenue Stamp	..	..	0 8 0
Total	..	..	32 8 0"

This would show that in fact 4000 hand-bills must have been obtained though only 2000 sheets of one-fourth demisize were used. The evidence of Sadashiv on the point is as follows:—

"I had printed two thousand copies of the said hand-bills in the shape of Ex. P-1 which is shown to me. It is half of the hand-bills which I had printed and thus the total hand-bills in the shape of Ex. P-1 were four thousands I had given four thousand copies of Ex. P-1".

The correctness of this statement is borne out by Ex. P 76 itself.

We shall now turn to the evidence of Baljnath Sharma, P.W. 69. It is not disputed before us on behalf of the respondent that there are only two presses in Jalna, Kailash Printing Press and Gangasagar Art Press, which print Urdu literature. Sharma visited all the printing presses in Jalna including the above two and found that the types used in printing Ex. P-1 were to be found only in the Kailash Printing Press and the Gangasagar Press. It is nobody's case that Ex. P-1 was printed at the Gangasagar Press and, therefore, it would not be unreasonable to infer that it was printed at the Kailash Printing Press.

What remains to be considered in this connection is the evidence of Iftekhar Ahmed, D.W. 33. He has stated that the Samiti office at Jalna had got printed three Marathi pamphlets and one Urdu pamphlet during the election campaign. He has identified Ex. D-46 as the Urdu pamphlet published by the Samiti. This pamphlet, according to him, was drafted by Narayanrao Waghmare, Dajuba Desai, Uddhavrao Patil and himself and Nirki Pleader. Thereafter one T. G. Kharat was deputed to take the signatures of the persons whose names appeared on it and after obtaining their signatures he and Narayanrao Waghmare gave the pamphlet for printing to the Kailash Printing Press. In this connection they both went to the Press and placed an order for 2000 copies. The charges were settled by him at Rs. 13 for printing a thousand, and as the pamphlets were printed on the reverse an extra charge of Rs. 6 was agreed to be paid. According to him, a total amount of Rs. 32 was agreed to be paid and this amount was

actually paid to the Press. He has referred to Ex. P-75 and said that the entry against which he has signed relates to Ex. D-46 and that its contents are correct except that the rate was Rs. 13 per thousand and not Rs. 14 per thousand. He also stated that the extra money paid for the printing on the reverse is not mentioned in the order. He has specifically denied that Ex. P-1 was published or circulated by the Samiti. According to him, he came to know of this pamphlet for the first time two months after the election. This witness is a paid worker of the communist party. His wife belongs to Parbhani and therefore he claims to know all the facts set out in the pamphlet, Ex. P-1 concerning the appellant. He has stated that at Kalamnoori, Hingoli and Parbhani it is generally known to the public that Baba Saheb Sawanekar is of bad character and that he committed atrocities on the muslims and others after the Police Action. After the Police Action he started collecting money by threatening people and by resorting to other illegal means. He took possession of Government lands illegally and kept forcibly helpless women in his house. The witness has further stated that Yasin Khan Pleader who is a congress worker as well as Yankin and Mir Hashim-ali told him about the bad character of the appellant and added that this was a well known thing in Parbhani. He has been knowing all these facts for over five years and yet he says that he did not ask any one to take any steps against the appellant. He himself, though a political worker of a dynamic party has not troubled to make complaints about the appellant's activities to the appropriate authorities. Then he stated that he had visited Parbhani, Hingoli and Kalamnoori and the people told him the same things there and that several other persons said that if he desired he could go to the appellant's house and see things for him. He further says that he came to know also that the public had sent a memorandum to the Hyderabad Government, and to Shri Digambar Rao Bindoo, the then Home Minister. He was however, compelled to admit—"I cannot tell the names of anyone who has told me at Hingoli about the bad character of Shri Babasaheb Sawanekar or his atrocities..... I cannot say particular instances on whom Shri Baba Saheb Sawanekar had committed atrocities. I do not know whether Shri Baba Saheb Sawanekar occupied illegally the land of Yasin Khan Pleader..... I or any other worker of Samiti did not tell the voters about the bad character of Shri Baba Saheb Sawanekar..... I did not tell that to any of the Samiti workers even uptill now". Though here we have a political worker who has every knowledge or at least who has in his hands the information regarding the high-handed illegal and immoral behaviour of the appellant, yet he has not troubled to set the law in motion against the appellant. Not merely that but when the election campaign was on and when the appellant was arrayed in the contest against a candidate whom the witness and his party was supporting, he did not bring the facts to the notice of the leaders of the parties with a view to inform the voters about the serious blemishes in the character of Baba Saheb Sawanekar and about his unsuitability for being returned as a representative of the people to the legislature. All this is extremely difficult to believe. Either he knew nothing against Baba Saheb Sawanekar or that he did not believe the allegations against him to be true or that he knew about them and believed them to be false. If the former was the case he could not have been the individual instrumental in giving information to the Samiti about the bad character of the appellant but if the latter is the case, it is reasonable to infer that he might have given the information upon which Ex. P-1 was founded. But he is keeping that fact away from the Court and thus telling a falsehood. His explanation regarding the rates mentioned in Ex. P-75 and those at which payment was made ultimately, as evidenced by Ex. P-76 is unsatisfactory and we are not prepared to accept it.

We have omitted to mention earlier the evidence of Nagnath, D.W. 36 who was adduced on behalf of the respondent to prove that Ex. P-1 was not printed at the Kallash Printing Press. This person is not a permanent employee of the Kallash Printing Press at all. As admitted by him he only did overtime-work in that press, occasionally, between 10 p.m. and 2 a.m. He has stated positively that during the bye-election in question he did overtime work at the Kallash Printing Press. According to him, no Samiti pamphlet was printed in the Kallash Printing Press. No then expressly referred to Ex. P-1 and said that it was not printed at the Kallash Printing Press but he added that it was not printed during the period that he worked overtime. His evidence thus does not negative the possibility of Ex. P-1 having been printed at the Kallash Printing Press during the normal working hours of that Press.

Considering the entire evidence adduced in the case and bearing in mind the probabilities of the case, we have little doubt in coming to the conclusion that the pamphlet Ex. P-1 was printed at the Kallash Printing Press, Jalna, with the knowledge of the respondent and that the order for printing it was placed by

a worker of the Samiti. According to the respondent all orders on behalf of the Samiti were placed by Waghmare but he has admitted that Iftekhar Ahmad had also placed an order on behalf of the Samiti. The order placed with the Kailash Printing Press was placed by Iftekhar Ahmed and must be deemed to be on behalf of the respondent and the Samiti. We, therefore, hold in view of the probabilities that Ex. P-1 was printed at the Kailash Printing Press and the order was placed on behalf of the Samiti with the knowledge and consent of the respondent by Iftekhar Ahmed, who must be deemed to be an agent of the respondent and consequently his act would bind the respondent.

We may point out that during the course of the argument Mr. Nandapurkar conceded that the order dated 20th January 1958, Ex. P-75 was placed with the Kailash Printing Press by the respondent through Iftekhar Ahmed. It, therefore, follows that that order must be regarded as one which was placed by the respondent himself.

Having held that the pamphlet, Ex. P-1 was got printed by the respondent, it would follow that he brought the pamphlet into existence. As already stated, the circulation of the pamphlet at various places in the constituency during the election campaign on the date of the polling is not disputed on behalf of the respondent. By circulating the pamphlet it must be regarded as having been published. Now, the question is whether the publication was by the respondent or by any of his workers or agents. If we hold against the respondent on this point the publication of the pamphlet will be established.

Before dealing with the evidence on the point, we might consider here an argument advanced by Mr. Nandapurkar. He says that most of the voters in the constituency being illiterate the pamphlet could not have been read by them and, therefore, it would not be correct to infer from the mere fact of circulation that the pamphlet was published in the constituency. It is true that the majority of the people living in the rural area are illiterate but the pamphlet was circulated not merely in the rural area but also in certain towns including Jalna and Partur. There is nothing on record from which we could infer that there is wide spread illiteracy even in these towns. Indeed it cannot be reasonably denied that a fair proportion of the urban population is literate. Apart from that there is the evidence of a number of persons to the effect that they had actually read the pamphlet and disseminated the contents of those pamphlets to others. Then it was said that the pamphlet was admittedly distributed on the polling day, and, therefore, its contents could not have been known to many people. Even assuming that to be so, it makes no difference because the law does not require a petitioner who is challenging the election of his opponent on the ground of circulation of false statements to establish that the result of the election was affected by the publication of such statements. It is sufficient to establish that false statements were published. If he does that he is entitled to succeed in his petition.

We shall now deal briefly with the evidence concerning the circulation of the pamphlet by the respondent or by his agents or workers.

A public meeting was held at Jalna on 1st February 1958. It was presided over by Mr. Gadhe, Minister for Forests. It is the case of the appellant that the pamphlet, Ex. P-1, was distributed in that meeting by one Shaikh Rahim towards the conclusion of the speech of the appellant. Immediately after the distribution of the pamphlet came to the knowledge of the appellant he left the meeting and asked Vijendra Kabra, P.W. 7, one of the congress workers who was present at the meeting to contradict the statements made in the pamphlet. Mr. Vijendra Kabra accordingly contradicted those statements. Mr. Gadhe also challenged the contents of the pamphlet and said that anyone who alleges the contents to be true should come forward and address the meeting but no one came forward. Vijendra Kabra, whom we will hereafter refer to as Kabra, for brevity, is a social worker and a political worker since the year 1938. He used to be a member of the Praja Socialist Party but he joined the Congress just before the holding of the bye election. He has stated about the incident as follows:—

"When Baba Saheb Sawanekar was concluding his speech, one person was distributing the pamphlet among the audience. One Congress worker Ahmed Raza Razvi got one pamphlet and handed over one hand-bill to Shri Baba Saheb Sawanekar while he ended his speech and sat down".

According to him, the appellant handed over the pamphlet to him. After reading it he found that its contents are absolutely false and, therefore, he contradicted

them in his speech. He also said that Shaikh Rahim who was distributing the pamphlet should be arrested immediately. Shaikh Rahim belongs to Osmanabad and is a worker of the Peasants & Workers Party. He added that Mr. Gadhe referred to the allegations contained in the pamphlet and said that from the manner in which the pamphlet was being distributed, a little imagination will make it clear to every one that its contents are false and that Mr. Gadhe challenged any one who subscribes to those allegations to come forward and repeat them publicly at that meeting. Then Mr. Gadhe waited for sometime. No one came forward and the meeting concluded.

Undoubtedly this person was, at the time he deposed the General Secretary of the Marathwada Pradesh Congress Committee for the preceding six and half months and is thus a partisan witness but the question is whether on that ground alone his evidence should be discarded. He is a public worker of long standing and holds a responsible position. Apart from that he has deposed in a restrained manner and refrained from making any extravagant statement. There was hardly any cross-examination of the witness on the points to which we have referred already. No satisfactory reason is given by the tribunal for disbelieving the evidence of Kabra. The only ground on which his evidence and that of Mr. Gadhe appears to have been discarded by the tribunal is that when an inquiry into the distribution of the pamphlet at the particular meeting was made by S. I. Baijnath Sharma, P.W. 69, under orders of his superiors, he could not ascertain the name of Shaikh Rahim. He also relies on the omission in the complaint made on behalf of the Congress to the police of the name of Shaikh Rahim. Therefore, according to him, the mention of Shaikh Rahim's name by Kabra and others is an after-thought. It is true that this is an important omission but we may mention that Shaikh Rahim's name is stated in the petition which was lodged within a month of the declaration of the result of the election. The complaint to the Police was actually lodged by Ramchandrarao, P.W. 64, who was at that time the President of the District Congress Committee, Aurangabad. No question was put to him as to why Shaikh Rahim's name was not mentioned by him in the complaint. The complaint made by him was based not on personal knowledge but on the basis of the information received by him from certain Congress workers. Who those workers were we do not know because no question was put to him on the point either in the examination-in-chief or in the cross-examination. Indeed if it was the object of the respondent to show that the mention of Shaikh Rahim's name was an after-thought, it was necessary for him to ascertain or at least seek to ascertain from the witness the source of his information on the basis of which he had lodged the complaint. No questions were put to Kabra either as to whether he had given any information to Ramchandrarao on the basis of which the complaint was lodged by him. In these circumstances, we fail to appreciate how Kabra's evidence can be discarded solely on the grounds that the complaint does not mention the name of Shaikh Rahim and that the Police Officer who inquired into it could not ascertain the name of the person who had distributed the pamphlet. The failure of the Police Officer to discover the name of Shaikh Rahim during the inquiry may well have been due to the fact that the inquiry was not very thorough or satisfactory.

It is next urged before us that Ramchandrarao Patil, P.W. 64, admits that no complaint was received by him concerning the distribution of the pamphlet during the election campaign. Now, the fact is that Ramchandrarao being a responsible officer of the Congress organisation was busy moving from place to place in the constituency during the campaign. He states that he was at Jalna on the date of the meeting and that after the polling was over he went to his village where he stayed for about a fortnight. On the polling day itself he visited the polling booths in Jalna and Ambad taluka, i.e., all those situate in rural areas. He could, therefore, not have received any complaint about the happenings in Jalna town till after his return from his village.

We will next consider the evidence of Mr. Gadhe P.W. 65. Being a member of the Congress he is undoubtedly a partisan witness but we cannot overlook the fact that he holds an important office in the State and therefore it cannot be assumed that he would make untrue or exaggerated statements. He has stated in a very categorical tone that at the meeting addressed by him at Jalna town on the 1st of February 1958 one Urdu pamphlet was distributed amongst the audience by a Samiti worker who was identified by Kabra. The pamphlet was handed over by one, Rizvi to the appellant who handed it over to Kabra and that Kabra in his turn handed it over to him. He has then said—

"I read it. As the petitioner was in a hurry, he asked Shri Kabra who was the next speaker to contradict it and I also asked him to do the same

and Shri Kabra contradicted the contents and allegations made in the pamphlet..... Shri Kabra contradicted the contents and requested in his speech, the Police authorities to take legal action against the distributors or as to whoever be responsible for publishing and distributing such pamphlet. As the allegations made against the petitioner's character in the pamphlet were false, I asked Shri Kabra to contradict the contents of the Pamphlet..... I, in my speech, challenged the contents to be true, to come forward and address the meeting. I asked particularly because the pamphlet was anonymous and the name of the press was also not printed".

We identified Ex. P-1 as the pamphlet which was distributed at the meeting and which he had read. We see no reason to disbelieve this statement made by the witness, which incidentally affords considerable corroboration to the evidence of Kabra. Mr. Gadhe has also stated that he is associated with the appellant for the last twenty years. He is thus in a position to have knowledge of the character of the appellant. In his opinion the allegations made against the appellant were false and that is why he asked Kabra to contradict them.

According to Kabra, Shaikh Rahim is a resident of Osmanabad and a worker of the Peasants and Workers Party. No doubt the respondent has denied this fact. Even so, it was, in our opinion, necessary for the respondent to examine him as a witness in order to rebut the statement made by Kabra in his evidence. The appellant could not be reasonably expected to examine Shaikh Rahim because it is the appellant's case that he belongs to a party which is a constituent of the Samiti. One of the reasons given by the tribunal for discarding the evidence of Kabra was that the appellant should have examined Ahmed Raza Rizvi who had handed over the pamphlet to Kabra. It would have been material to examine him had either Kabra or Mr. Gadhe stated that this man had directly received the pamphlet from Shaikh Rahim. Since there is nothing to indicate that this was the case no inference can be drawn against the appellant for his failure to examine Rizvi.

The appellant has examined four more witnesses to establish the circulation of the pamphlet at Jalna by the agents or workers of the respondent. They are Aminabi alias Ammubi, P.W. 33, Banekhan P.W. 10, Nurul Huda P.W. 15, and Gulam Mohmed Shamsuddin, P.W. 19. Now, Aminabi has stated in her evidence that Banekhan had given her some Urdu pamphlets wherein it was stated that the appellant had kept two muslim women in his house and that as she was promised some monetary consideration for doing so, she distributed the pamphlet amongst the women voters in a certain part of Jalna. Her evidence was not accepted by the tribunal because she could not identify the pamphlet and because she had stated that some Samiti workers had proclaimed on loud speaker even before the distribution of the pamphlet about the bad character of the appellant, which is not the case of the appellant and which no other witness has deposed to. We are inclined to agree with the tribunal that her evidence cannot be safely acted upon.

Banekhan, P.W. 10, says that Tilawat Ali, Pleader, P.W. 66, and also a M.L.A., gave him some copies of the pamphlet Ex. P-1, for distribution and that he handed over some of them to Aminabi. According to him, Mr. Tilawat Ali held a meeting in his house of some muslim workers and handed over about 25 or 30 pamphlets to him for distribution. He further stated that some of the Muslims, who attended the meeting said that the muslims will vote for the Congress as that is what they have been doing in the past, while others said that they should not vote for the Congress candidate as he had hurt the religious feelings of the muslims. According to him, majority of the persons who attended the meeting decided not to cast votes for either of the two candidates. This person was elected to the Municipality of Jalna shortly after the bye-election in question as a Congress nominee. He admits that he was not a member of the Samiti but says that he worked for the Samiti at the election at the compulsion of Mir Tilawat Ali on behalf of the Samiti. It is hard to believe that a person like Mir Tilawat Ali who is both a lawyer and a M.L.A. and is thus presumed to have knowledge of human nature would entrust so dangerous a task as the distribution of a pamphlet containing false allegations against a candidate for the election to a person who does not belong to his political party but who is either a Congressman or at least a Congress sympathiser. In his cross-examination he has admitted—"I was asked to work for the Samiti in the area of Town Hall booth. The muslims of my Mohalla did not take effect of my canvassing for the Samiti". No doubt he added latter that after seeing the pamphlet the muslims changed their views but the fact remains that according to the witness himself,

he could cut no ice with the electors while he was carrying on propaganda on behalf of the Samiti. Had he been an influential person in the locality perhaps Mir Tilawatali might have tried to enlist his support for the Samiti but on the witness's own showing the appropriate inference to be drawn is that he is not an influential person. Therefore, we not not think that Tilawatali would at all have approached him during the election campaign and that whatever this witness has stated is false and unbelievable.

Mir Tilawatali, D.W. 66, has been examined as a witness in this case on behalf of the respondent. He is undoubtedly a member of the Samiti and was returned to the legislative assembly on behalf of that organisation. His evidence can, therefore, be characterised as partisan evidence but even so, we think that he has deposed in a straight forward manner and that his evidence cannot be discarded merely on the ground that he is a partisan witness. He has not only denied having enlisted the support of Banek Khan or asked him to distribute the pamphlet in question but had stated that at the relevant time he was busy at Parbhani in connection with the Urs celebrations which was going on there. He was admittedly at that time the Secretary of the Committee of the Urs of Dargah Shariff and there is ample evidence to show that his work had kept him in Parbhani on the 31st of January on which date, according to Benckhan, he had visited Jalna and handed over the pamphlets to him. Not a single question was put to him in cross-examination about the holding of the meeting in Banekhan's house on the 31st January or even on the 30th and the handing over of the pamphlets to him. The Urs celebrations went on from 31st January, 1958 to 3rd February, 1958 and the Sandhal processions were taken out both on the 31st January, and on the 1st February, 1958. According to Mir Tilawatali he was kept busy with various matters concerning the Urs from the 30th January till the 4th February and that consequently it was not possible for him to leave for Parbhani during the Urs celebrations. Indeed during this period not only did he live in Parbhani but he lived in the premises of the Dargah. The work of a Secretary of the Dargah Committee in connection with the Urs, which is held only once a year and which is the most important function connected with the Dargah, is quite an onerous job and we believe him when he said that during this period he was not in a position to leave Parbhani at all. There is certain documentary evidence to support his statement which has been dealt with by the tribunal in its judgment but we need not refer to it because we agree with the tribunal that the evidence is satisfactory and affords adequate corroboration to the statements of Mir Tilawatali.

The remaining two witnesses on whom reliance is placed on behalf of the appellant are Nur-ul Huda, P.W. 15, and Gulam Mohamad, P.W. 19. We have already discredited the evidence of the former on the question of giving of threats to voters and have pointed out that he is a man of bad character and his evidence is unworthy of belief. According to him Mir Tilawatali had gone to Jalna on 1st March, 1958 and had canvassed on behalf of the respondent. He also said that Mir Tilawatali called a meeting which was attended by 15 or 20 persons and at that time pamphlets were distributed by Mir Tilawatali. Apart from the fact that we find it hard to believe that a pleader, who must be presumed to know the law, would take the risk of distributing a defamatory pamphlet amongst the voters, the story told by the witness is on the face of it absurd and cannot, therefore, be accepted. The evidence of Gulam Mohamad has been considered by us earlier in connection with issue No. 5. He is a partisan witness having been elected to the Jalna Municipality on behalf of the Congress organisation. According to him, Banekhan distributed the pamphlet, Ex. P-1, in his mohalla. We have already pointed out that Banekhan's evidence is not worthy of credence and, therefore, it cannot be said that Banekhan at all distributed the pamphlet Ex. P-1 anywhere. Once that finding is reached it is impossible to accept the evidence of Gulam Mohamed as true.

While, therefore, we agree with the tribunal that the distribution of the pamphlet by Banekhan and Mir Tilawatali on behalf of the respondent is not established, we disagree with the tribunal in regard to the distribution of the pamphlet at the meeting presided over by Mr. Gadhe at Jalna on 1st February, 1958. We are clearly of the opinion that the pamphlet was distributed at the meeting and that the person who did so was a worker of the Samiti. He was so identified by Kabra who having been in the thick of the election campaign at that time was in a position to know which person was working for the Congress and which for the Samiti.

In view of the aforesaid finding it is really not necessary for us to consider the evidence led by the appellant with regard to the distribution of the pamphlet at other places, but inasmuch as the matter was argued before us at considerable

length and in view also of the fact that this case may be taken to a higher Court, we think it necessary to discuss, how so ever, briefly that evidence.

The evidence adduced on behalf of the appellant refers to the distribution of the pamphlet at five other places—Revgaon, Partur, Jintoor, Bori and Ambad. Mr. Chandrachud, however stated that he did not wish to rely on the fact of distribution at Revgaon because that place is not mentioned in the petition. We will therefore, leave that evidence out of consideration and proceed to consider the evidence with regard to the distribution at Partur.

Six witnesses have been examined for proving the distribution at Partur at the instance of the respondent or his agents or workers. The first of them is Misbahuddin, P. W. 12. The respondent is a resident of Partur and is practising there as a pleader. Having held that he was instrumental in getting the pamphlet printed and having also that the pamphlet was distributed at a public meeting at India, it was not unlikely that he or his agents or workers distributed those pamphlets at Partur, as well. Now, according to the evidence, the hand-bills were distributed in Partur town a day before the polling by Mr. Hashamali, a Pleader of Farbhani. According to him, it was stated in the pamphlet that the appellant oppressed the muslims and that the muslims should, therefore, not vote for him. He does not make any reference to the other contents of the pamphlet, i.e., of the appellant having kept two muslim women by force in his house. No doubt he identified Ex. P-1 as the pamphlet which was distributed but in view of his omission to refer to the most important portion of the pamphlet we would not attach importance to his evidence.

The next witness about the matter is Syed Ikramali, P. W. 22. He is a lawyer by profession and was the polling agent of the respondent at Partur. He has stated in his evidence that he had seen the pamphlet a day or two before the date of polling in which certain statements were made regarding the character of the appellant. He saw this pamphlet at the shop of one Hussain Chaus at Partur. According to him, Mr. Hashamali Pleader and one Gulam Dastagir who were both Samiti workers and some two or three other persons were also at the shop of Hussain Chaus at that time. Hashamali was saying that the appellant's character is not good and that, therefore, they should vote for the Samiti candidate. Further, according to the witness he had seen the pamphlet with Hashamali also that he as well as others who were present at the shop at the time had read it. He identified Ex. P-1 as the pamphlet which he had seen and read. Bearing in mind that this person was a worker of the Samiti at the very election and also bearing in mind his status in life we find it impossible to discard his evidence as false. No motive has been attributed to him either for telling a falsehood. From certain statements made by him it would appear that he was deposing in a restrained and responsible manner. In answer to questions put to him in cross-examination, he has stated, "I did not hear about any contradiction made by the Congress about the allegations made against the character of Shri Baba Saheb Sawanekar in the speeches and in the above said pamphlet I did not make inquiry whether the allegations made in the pamphlet or in speeches are correct. I consider it to be a light matter which was written in the pamphlet. I did not distribute the above said pamphlet as a Samiti worker. I did not see Shri Hashim Ali distributing it in the public. I had seen only the pamphlet with him, though he had several papers and that too in the shop of Hassan Chaus. I, Hashim Ali and Gulam Dastagir had moved together for election propaganda in Partur town, one, two or three days before the polling". Now, if he wanted to exaggerate matters in order to support the Congress and the appellant, he might as well have said that he had heard of contradiction by Congress workers of the allegations made against the character of the appellant. Because, had he said so, that would have been an additional circumstance for holding the distribution of the pamphlet on a wide scale. Again being himself a Samiti worker, he might have, while carrying on the propaganda on behalf of the Samiti distributed the pamphlet, yet he say that he did not do so. Assuming that he did not want to incriminate himself, he could have said that Hasham Ali distributed the pamphlet but he said nothing of the kind. We are impressed by his truthfulness and his evidence even if it had stood by itself would be sufficient to hold the distribution of the pamphlet by the Samiti Workers at Partur proved.

The next witness examined is Rangnath Bangale, P.W. 57, who is a contractor and a Congressman. His name was not in the first list of witnesses submitted by the petitioner. We would, therefore, be slow to act on his evidence without adequate corroboration. According to him, the pamphlet, Ex. P-1, was distributed at a meeting addressed by Shri Atre. We have already considered this part of the evidence and refused to act upon it. He has stated further that on the day

previous to the date of the polling he was passing through the muslim Mohalla and saw Hashamali and two or three persons of Partur distributing those pamphlets. One of those pamphlets was shown to him by a person who claims to have read it and told the person that whatever was written therein was not correct. According to him, he obtained the pamphlet from Hashamali. It may be that some Samiti workers were distributing the pamphlets in the muslim Mohalla but we find it difficult to believe that a lawyer would take the risk of distributing them among the public in this manner. We, therefore, think that at least in so far as the witness attributes the distribution of the pamphlet to Hashamali, his evidence is not true.

No doubt, Bangale is corroborated on the point by Fateh Mohammed, P.W. 21. This witness has also deposed about reference to the pamphlet at the meeting addressed by Mr. Atre but we have not believed that part of his evidence. We are also not inclined to attach any value to the statement of this witness about the distribution of the pamphlet by Hashamali himself, though it is possible that the pamphlet was in fact distributed in Partur or in parts of Partur by some other person.

The next witness examined on behalf of the appellant on the point was Abdul Rahmankhan, P.W. 59. His evidence was, however, not relied upon by Mr. Chandrachud because of an obviously false statement, made by him. We, therefore, say nothing about him.

Finally, there is the evidence of S.I. Kulkarni, P.W. 58. He says that he saw the pamphlet, Ex. P-1, on 2nd February, 1958. One Ganpatrao Paidgaonkar gave it to him and he learnt that that pamphlet was distributed by Samiti workers at different places in the constituency including Partur. His evidence is merely hearsay and cannot, therefore, assist the appellant very much.

The respondent has examined Hashamali, D.W. 63, in order to disprove the appellant's case that Hashamali had distributed the pamphlets. Now, as already pointed out, we are not prepared to accept the evidence of Rangnath Bengale and Fateh Mohamed on the point of actual distribution of the pamphlet by Hashamali in Partur town. We have, however, pointed out that the evidence of Ikramali connecting Hashamali with the distribution of the pamphlet in the shop of Hussain Chaus is worthy of credence. Now, in order to get over the evidence of Ikramali it was stated by Hashamali that he could not have been at the shop of Chaus on the date in question because from 28th January 1958 upto 3rd February 1958 he was at Parbhani particularly in connection with the Urs celebrations and also in connection with his professional work. In so far as the Urs is concerned, his presence was not required at Parbhani during the entire period. The witness has admitted that he was only connected with the Mushaira. The precise date of the Mushaira is nowhere stated in the evidence but we have it on record that the Sandal processions were on the 31st of January and the 1st of February 1958. The Mushaira, therefore, must have been held subsequent to the 1st February. Now according to Syed Ikramali, he saw the pamphlet a day or two before the date of the polling. The polling was on the 2nd and Ikramali either saw the pamphlet on the 1st February or the 31st January. The Mushaira work would, therefore, not have stood in the way of Hashamali on either of those days. Hashamali could not have been detained at Parbhani throughout the 31st January and 1st February because of his court work. Now, according to Hashamali on 31st of January 1958 he had a case in the Court of the Sub-Judge at Parbhani. From the 28th to the 30th January 1958 he had other cases in the Courts. We need not concern ourselves with the work he had a case in court on the 28th, 29th and 30th. The question is whether he had any work at all on the 31st and if so whether he had such work as would have detained him throughout the day. He has not produced his Court diary but he stated that on the 31st January he appeared in Kanniahahal Vs. Bankatlal (case No. 116 of 1957). Ex. D-121 is the certified copy of the order-sheet dated 31st January 1958. The entire record of the aforesaid suit was before the tribunal. We, therefore, sent for it and upon a perusal thereof, we find that it is highly improbable that Hashamali was at all required to be present on 31st August 1958 in connection with the case and that, therefore, it was possible for him to go out of Parbhani on that day. The proceedings before the Court was one under the Debtor's Relief Act. No doubt it was fixed for hearing on 31st January but on that very day Ramchandra, the applicant, filed an application in the Court stating as follows:—

"In the above case the applicant's pleader cannot attend the court because the applicant's pleader is going to Jintur for the necessary work.

Prayer

"Being allowed this petition and case be adjourned for the next date".

It may be mentioned that on the very day one Bhaskerrao Padgaonkar, a pleader, had also filed a vakalatnama on behalf of Ramchandra, apparently to provide against the contingency of the Court not granting adjournment. The case was in fact adjourned to 12th February 1958 and on that date it was "struck-off the roll", because the matter was compromised. On behalf of the respondent, however, reliance is placed upon two facts. The first is that the order-sheet itself mentions the presence of the 'Counsel for the petitioner' and the other is the signature of Hashamali on the order-sheet. In so far as the mention of the presence of the petitioner's lawyer is concerned, it is sufficient to say that Mr. Padgaonkar having filed his vakalatnama, the Court would be justified in mentioning his presence in the order sheet. As regards the signature of Hashamali, appearing in the order sheet, it is sufficient to say that such signature can be made at any time. It is in fact the whole signature but appears to be an abbreviation. What militates against the contention put forward on behalf of the respondent is the fact that Ramchandra had asked for an adjournment on the ground that his lawyer, i.e., Hashamali had to go to Jintur on that day and consequently he could not remain present on that day. In addition to this circumstance, we may also point out that on the adjourned date, that is, on 12th February 1958 Mr. Hashamali did not at all appear in the case which he would have done if he had any concern left with it. Apparently, after the appearance of Mr. Padgaonkar Mr. Hashamali went out of the picture. It was argued before us that if that were so, there was no point in asking for an adjournment because of the inability of Mr. Hashamali to remain present. The answer to that is furnished by the statement in the order sheet of 12th February 1958 that the matter was compromised. Apparently, Ramchandra had a two-fold object in seeking the adjournment, one was to prevent the case from going on in the absence of his lawyer and the other was to effect a compromise. We think, therefore, that it was not impossible for Hashamali to leave Parbhani on 31st January 1958.

The evidence, therefore, established the appellant's contention that Ex. P-1 was also published at Partur.

The next question is the distribution of Ex. P-1 at Partur. The first witness in point is Miyajan Deshmukh, P.W. 18. According to him, the respondent himself gave him the pamphlet and that he had distributed these pamphlets amongst several voters. As we have already pointed out Miyajan, Deshmukh is not a witness of truth at all. Further, he was more interested in the Congress than in the Samiti and, therefore, it is next to impossible that the respondent could have given him any pamphlet for being distributed. The other witnesses are Mohd. Osman P.W. 43, Nagorao P.W. 45, Sayed Hashim, P.W. 47, Kazi Zainulabuddin P.W. 50, and Mohd. Abdul Majidkhan, P.W. 54. All these witnesses say that they obtained the pamphlet, Ex. P-1 from him. Since we have disbelieved the evidence of Miyajan Deshmukh, the evidence of these witnesses must go by the board. We may mention that all these witnesses have been disbelieved by the tribunal and we agree with it.

Apart from the evidence of this group of witnesses, we have to consider the evidence of two other persons examined by the appellant in connection with the circulation of the pamphlet in Jintur. One of them is Devidas, P.W. 41. He admittedly worked as a polling agent of the respondent at the polling booth of Bhogon village in Jintur taluka. We have referred to the evidence of this witness earlier in connection with another matter and we have not placed any reliance on him. According to him, he had been to the house of Bhujangrao Vakil at Jintur a few days before the date of polling. He had gone there actually to meet the respondent who has, however, not present at that house. After a while he came there. He had with him about 50 or 60 Urdu pamphlets, a few of which he handed over to the witness. In those pamphlets the respondent was praised and something had about the character of the appellant was written. In particular it was said that the appellant had oppressed the muslims and had forcibly kept two muslim women in his house. The witness says that after his return to his village along Aba Saheb, P.W. 36, who was with him, he distributed the pamphlets. He also claims to have read out the pamphlets before the people of the village. He was disbelieved by the tribunal on two grounds the first reason is that Dagdoba a Congressman who is the son-in-law of Bhujangrao was alleged by the witness to be present when the respondent had a talk with him and when the latter had asked Seshrao Patwarl to give Rs. 10 to Abasaheb for hiring the carts for carrying the voters and handed over the pamphlets to him for paying the hire charges, the second reason is that the respondent could not have been at Bhujangrao's house when the alleged talk took place. The second ground is not sufficiently made out, but we think that the first one is sufficient to discredit the witness. Now, it is hard to believe that an experienced man like the respondent would say before a person belonging

to the opposite camp that he was giving money to one of his workers for committing an election offence. It is similarly difficult to believe that such a person would hand over pamphlets containing scurrilous matters to one of his workers in the presence of such a person when his activities were bound to be reported to the organisation supporting his rival candidate. We, therefore, discard the evidence of Devidas.

Then there is the evidence of Imrozebaig, P.W. 48. He says that he received some pamphlets from the Samiti office and distributed them. It may be mentioned that this witness had also deposed that he had received Rs. 50/- from Miyajan Deshmukh for being distributed among the voters and we had disbelieved him on that point. It seems to us that the witness who could tell a falsehood of that kind cannot be lightly believed without corroboration on the other matters deposed to by him. As we have already pointed out, this witness was elected with the Congress support to the town Committee in the year 1958 and is thus an interested person. Apart from that it is not easy to say how a person who was at least sympathetic towards the Congress can be entrusted with task of this kind. It may be mentioned that, according to the witness, he worked for the Samiti because Miyajan Deshmukh had asked him to do so a day before the polling day. He has, however, stated also that he received the pamphlets two or three days before the polling day. If that statement is true it means that he received those pamphlets even before Miyajan Deshmukh asked him to work for the Samiti. It is clear from this that the witness is prevaricating. We, therefore, agree with the tribunal that his evidence cannot be safely acted upon.

Next we will deal with the evidence regarding the circulation of Ex. P-1 at Bori. The witnesses examined by the appellant on the point are: Sadashivrao P.W. 42, Ganpatirao P.W. 46, and S. I. Keshavrao, P.W. 58. The circulation of the pamphlet at this place is, however, not mentioned either in the petition or in the amplification and, therefore, on this ground alone we would be entitled to leave out of account the evidence with regard to its circulation in that place. We may also point out that the names of Sadashivrao and Ganpatirao were not mentioned in the list of witnesses though both are lawyers as well as Congressmen. Shivajirao has admitted in his evidence that after the election results were declared he had toured around Parbhani for collecting information as to what happened at different places. In the course of his tour he could, therefore, have come to know the facts which these men had disclosed and also their names. It is, therefore, extremely strange that no mention whatsoever should have been made of Bori in the petition or in the amplification and the names of these witnesses not stated in the list of witnesses. Apart from that the story told by them is rather difficult to be believed. The story is as follows:—

"Sadashivrao says that he had visited Bori for canvassing on behalf of the Congress on the day previous to the date of polling. He was travelling by a bus from Parbhani to Bori. At the bus stand Bori, Hashamali Pleader and one Imamuddin Yakhin boarded the bus. According to the witness they were carrying bundles of papers. He, therefore, asked them what the bundles contained and Imamuddin said that it contained some pamphlets which they received from Jalna. The bus reached Bori. Imamuddin got down as also the witness, while Hashamali proceeded further. One Vithalrao Patthankar also got down there. This person without the permission of Imamuddin opened the bundle, took out a pamphlet therefrom and handed over the same to the witness for reading. He read it and asked Imamuddin as to what was the necessity of that pamphlet. Imamuddin said that such propaganda is usually carried on in elections. Thereafter the witness identified Ex. P-1 as the pamphlet which he had seen and read at that time. It seems to us rather extraordinary that Imamuddin would allow the bundle to be opened by Patthankar and the pamphlet to be taken out by him in the presence of a congressman and it is strange for that person who was, we are told, to be a Samiti worker to show that pamphlet to a congressman who was working from the opposite camp and thus create evidence against the Samiti".

The entire story appears to be a figment of the witness's imagination. It is true that the witness is a lawyer and would ordinarily be entitled to be believed. It seems to us, however, that the story told by him is no improbable and has come out at so late a stage that we cannot give any credence to it. No question was specifically put to Imamuddin Yakhin in his cross examination on behalf of the appellant as to the removal by Patthankar of the pamphlet or to the conversation that took place at that time. In view of all these circumstances, we are not prepared to accept the story told by this witness.

Ganpatrao, the next witness on the point, has said that some one brought a pamphlet and handed it over to him on the day subsequent to the polling, saying that it was distributed at Bori on the polling day by Imamuddin Yakin and that this affected the voting. He then questioned Imamuddin Yakin about it and was told by the latter that he had received them from the Samiti office and, therefore, he distributed them. This man is at least a Congress-sympathiser and it was expected that he would bring the fact of the distribution of the pamphlet to the notice of the Congress organisation immediately, but apparently he did not do so. Apart from that it is not easy to believe that Imamuddin Yakin who admittedly belongs to the opposite camp would confess before him that he had distributed the pamphlets. Moreover the witness did not disclose the name of Imamuddin to S. I. Kulkarni when he made inquiries concerning the distribution of the pamphlets. We may mention that in the course of such an inquiry S. I. Kulkarni obtained the pamphlet from this witness himself and, therefore, had the witness known that it was distributed by Imamuddin he would have mentioned his name to S. I. Kulkarni. The fact that he did not do so cannot be ignored.

As against these two witnesses there is the evidence of Imamuddin, D.W. 65. He denied having distributed the pamphlets at Bori. He specifically denied having distributed Ex. P-1 at Bori or having admitted before Ganpatrao of the pamphlet having been distributed. No cross-examination was pointedly made with regard to the distribution by this witness. In these circumstances, we see no reason why his evidence should not be accepted in preference to the others. Agreeing with the tribunal we hold that the appellant has not proved the distribution of the pamphlet through the Samiti or by an agent or worker of the respondent at Bori.

What remains then is the distribution at Ambad. The witnesses examined for proving this are, Abud Bin Ahmed, P.W. 11, and Haji Saleh Abdul, P.W. 34. The former has said that a day before the polling Ex. P-1 was distributed at Ambad but he was unable to say by whom it was distributed. His evidence was disbelieved because, according to the tribunal, he was under the influence of one Papalal Seth a Congressman and also because he could not give the names of persons who had distributed the pamphlet at Ambad. Since no satisfactory reason is given for this omission, we must hold that his evidence does not go far enough and that it is insufficient to implicate the respondent or any of his agents or workers.

The other witness, Haji Saleh Abdul, has stated that one Bakshish Hussain had distributed the pamphlet at Ambad on 1st February 1958. We had occasion to consider the evidence of this witness in connection with issue No. 7 and we have discarded his evidence because it appeared to us that he was an obliging witness. It seems to us that for that very reason we should not act upon his evidence without adequate corroboration. None, however, is forthcoming. Apart from that the pamphlet being undoubtedly objectionable one would have expected the witness to have spoken about it to his son who is a 'Congress leader' with a view to see that the statements contained in that pamphlet were duly contradicted.

Bakshish Hussain, D.W. 44, denied that he did any work for the Samiti at the election; but he admitted that some pamphlets were distributed at Ambad. He was, however, unable to say what was contained in them. His evidence has been accepted by the tribunal in preference to that of Haji Saleh Abdul and we think that there is no adequate ground for our taking a different view of his evidence. We accordingly hold that the appellant has not established the fact that the pamphlet, Ex. P-1, was distributed at Ambad by the respondent or his agents or workers.

The appellant had led evidence about the circulation of the pamphlet, Ex. P-1, at Jambuzrug and the tribunal had found against him. We need not consider the evidence on the point because that evidence was not pressed for consideration before us by Mr. Chandrachud.

Mr. Chandrachud in the course of his argument referred us to the evidence of Rajeshwarrao D.W. 11, Nazimuddin D.W. 12, Bhujungrao D.W. 31 and said that this evidence has not been considered by the tribunal. Now, the evidence of the first two witnesses is to the effect that Ex. P-1 was circulated at Parbhani but they did not say as to who were responsible for its circulation. The evidence of the third witness is to the effect that this pamphlet was circulated at Jalna. He also does not say as to who circulated it. It may be mentioned that when a suggestion was made to him that he had given Ex. P-1 for circulation to Imrozabai, he denied having done so. From the evidence of these three witnesses the only thing which emerges is the fact of circulation of the pamphlet but it does not take the case any further because this fact is not now disputed.

There is, however, another piece of evidence to which we must refer because it has an important bearing on the question as to the connection of the Samiti with the distribution of Ex. P-1.

Ex. P-153 is an extract from the issue of the *Maratha* dated the 3rd February 1958. Amongst other things it is stated therein—"One Urdu pamphlet was distributed through the entire city dissecting the character of the Congress candidate, Babasaheb Sawanekar. Therefore, no muslim voter turned out to vote for the Congress". A long article appeared in the issue of the *'Maratha'* dated the 3rd February 1958 from which Ex. P-154 is an extract. There, amongst other things, it is stated—"But more than this the character of Babasaheb Sawanekar has become the subject of laughter even amongst the children in Marathwada. Two young muslim ladies had come to seek the shelter of this 'Baba'. They are still staying as the members of his household. This story is known to all. Many public hand-bills have been printed and distributed in that regard". It is no doubt true that in neither of these articles it is specifically stated that the pamphlets were circulated by the Samiti, but the reference to the circulation of the pamphlet and its effect on voters is made in such a way as to create the impression that the pamphlets were circulated either by the respondent, his agents or workers or by the workers of the Samiti itself. This is, of course, an inference but it seems to us that the inference is not at all farfetched. Considering, therefore, the evidence as a whole, we have no doubt in coming to the conclusion that the appellant has established the publication, circulation and distribution of Ex. P-1 in certain parts of the electoral constituency by the agents or workers of the respondent.

The next question then is whether the appellant has established that what is stated in Ex. P-1 is false or was believed by the respondent not to be true. We asked Mr. Nandapurkar whether he admitted that the contents were false and he stated that he would not be prepared to concede that they were false but the stand he took was not to urge seriously that they were or must be true. We infer from this that he does not seriously challenge the falsity of the statements contained in Ex. P-1.

Just as a person who is standing his trial for an offence before a court of law is presumed to be innocent unless he is shown to be guilty, similarly, in our opinion, when a person's character is assailed he must be presumed to be of good character until and unless it is proved that he is of a bad character. No doubt the section is so worded that the petitioner in the election petition must show that the allegations made against him were false but that provision is a general provision. Where the allegation concerns the character of a person, the ordinary presumption of law must prevail. If that be the correct legal position, the burden would be upon the person who has made defamatory allegations concerning the character of another to prove that they are true. Apart from that it seems to us that the evidence which has been adduced in the case is not only insufficient to show that those allegations are true but on the other hand it indicates that the allegations are false. We will just take one part of the allegations to show its complete falsity. It is stated in the pamphlet that during the Police Action two muslim women who had taken shelter in the Congress office were taken into his own possession by the appellant and are still being detained by him in his house by resort to force. Leaving aside for the moment the question whether any muslim women are residing in the house of the appellant, we will consider whether any woman could be said to have been detained therein against her will. The Constitution came into force in the year 1950. The Constitution provides a remedy for the release of a person who has been detained by anyone against his or her will. Ten years have elapsed since the Constitution came into force and yet no one has thought of making any application under Article 226 of the Constitution for the issue of a writ of Habeas Corpus against the appellant. It is suggested that the two women detained there have no relatives left in India, some of their male relatives having migrated to Pakistan while some having been killed in the police Action. We will assume for a moment that that is so but it does not mean that it was not possible for an application of a writ of Habeas Corpus to be made. A well-knit and coherent community like the muslims who are not only conscious of their rights but are always vigilant against encroachment on their rights would not have remained quiet for all these years if in point of fact two women from that community, belonging to a respectable family, were detained against their will by any one.

Evidence has been led to the effect that some complaints were made to the former Home Minister of the Hyderabad State against the high-handed activities of the appellant and that this very fact affords a substratum of truth for this allegation.

What we are concerned with is not merely a substratum of truth but truth whole and complete. The allegation which was disseminated must be shown to be completely true. If any part of the allegation is demonstrably false then it seems to us that the dissemination of the statement will fall within the definition of corrupt practice contained in sub-section (4) of section 123. As we have pointed out, the allegation to the effect that the women were detained by the appellant by force must be regarded as false because the legality of the detention has not been challenged.

The appellant entered the witness-box and denied as false the allegations contained in Ex. P-1. It is worthy of note that though the appellant had denied the allegations contained in Ex. P-1, no cross-examination was directed towards the point. Though a complaint is alleged to have been made to the Home Minister of the former Hyderabad State, its copy has not been placed on record. Mr. Bindu, who was the then Home Minister, was examined as a witness in the case but it has not been brought out in his evidence that that complaint included allegations concerning the detention by the appellant of two women of the muslim community in his house subsequent to the Police Action. No doubt Shamrao Naik and Tilawatali, the respondent himself and several other witnesses have deposed to the effect that reports were current in Hingoli and other areas about the bad character of the appellant and about his having kept two well placed muslim women in his house but apart from one witness no one has said that he saw any such women in the house of the appellant. That witness is Shamrao Naik, D.W. 87. Apart from saying that he had handed over a memorandum to Mr. Bindu containing the gross allegations against the appellant including one regarding the detention of two muslim women he has stated as follows:—

“Babasaheb's residential house is just on the road, which leads to Court and I daily go to the Court, so some acquainted persons seeing her standing in the verandah pointed to me and told that she is the muslim lady, which was kept by Baba Saheb in his house. Myself and Shivajirao Deshmukh happened to pass by the said road and while the muslim lady was standing in the verandah, Shivajirao told me pointing towards her that she is kept mother-in-law (kept muslim lady of Baba Saheb Sawanekar). He told this humorously to me”.

Apart from the improbability of such a statement having been made by a son-in-law concerning his father-in-law, there is one strong reason why we cannot accept this statement of Shamrao Naik and that is, that this matter was never put to Shivajirao in his cross-examination though Shivaji Rao was cross-examined at great length by the respondent. Apart from that Shamrao Naik does not appear to be a truthful witness at all. He has admittedly made false complaint of encroachment against the appellant to the Government but had later on to withdraw it and admit that what was stated therein was not correct. Then again Mr. Bindu has said that a complaint concerning the appellant was made to him by Thakur Umrao Sing and not by Shamrao Naik. Again this witness says that he possesses a copy of the memorandum in his file but he has not chosen to produce it. In his examination-in-chief he has stated that in the memorandum allegations against the moral character of Babasaheb were made. He could well have produced a copy of the memorandum in order to substantiate his evidence on the point but the fact that he did not do so would indicate that the memorandum does not support him. If that is so, then that would be another instance of prevaricating by the witness.

There are certain admissions, however, made by this witness which are relevant and which we take into consideration. The witness has admitted that the appellant was in jail for about two years before the Police Action and that he was released therefrom only four days after the Police Action. According to this witness, after the Police Action the Congress organisation had set apart a house for housing helpless muslim women of Hingoli. This house was located in the Muslim Mohalla. It would appear from his evidence that women were offered shelter by private citizens also. According to Shamrao the appellant told him that he would give shelter to helpless muslim ladies but he is not in a position to say whether he actually took any muslim women to his house. No question was put to the appellant in his cross examination concerning this. Therefore, it is not possible for us to say whether the appellant in fact gave shelter to any muslim women and is continuing to shelter them. The possibility of his doing so cannot, however, be overlooked. If a person due to charitable motives gives shelter to helpless persons, it would be unfair to draw an adverse inference against him and to suggest that what he did or what he is doing is with an ulterior motive.

The second reason is that the appellant had stood for election in the year 1951 and Shamrao was arraigned against the appellant at that time, but admittedly he did not allege then that the appellant had kept any muslim women in his house. This circumstance would, therefore, justify our coming to the conclusion that the allegations made against the appellant are false. The allegations being false it naturally follows that the election petition will have to be allowed and the election of the respondent will have to be set aside.

The question then is whether the appellant should be declared elected in place of the respondent. Now, the provision under which, after setting aside the election, the defeated candidate can be declared elected is Section 101, which runs thus:—

"101. If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the tribunal is of opinion—

- (a) that in fact the petitioner or such other candidate received a majority of the valid votes: or
- (b) that but for the votes obtained by the returned candidates by corrupt practices the petitioner or such other candidate would have obtained a majority of the valid votes.

the tribunal shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected."

This provision makes it clear that for the petitioner to be declared elected he must establish that he had in fact received a majority of votes. But that is not the case here. Alternatively, he must establish that but for the votes obtained by the respondent by corrupt practices, the petitioner would have obtained a majority of votes. It has not been shown as to how many votes were obtained by the respondent by resort to corrupt practices. That being the position the appellant is not entitled to be declared elected to this constituency. Upon this view we allow the appeal, set aside the order of the tribunal and declare the election of the respondent void. We further order that the costs of the appeal and the election petition shall be borne as incurred.

The cross-objections are dismissed. There will, however, be no order as to costs.

By order of the Court,
Sd/- N. M. SHANBHAG,
Deputy Registrar.
28-7-60.

[No. 82/3/58.]

By Order,
C. B. LAL, Under Secy.

MINISTRY OF HOME AFFAIRS

New Delhi the 16th September 1960

S.O. 2296.—In exercise of the powers conferred by section 18 of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby makes the following amendments to the Citizenship Rules, 1956, namely:—

1. These rules may be called the Citizenship (Amendment) Rules, 1960.
2. In the Citizenship Rules, 1956, (hereinafter referred to as the said rules), in sub-rule (3) of rule 16A—

(i) in clause (b), the word "and" shall be omitted;

(ii) for clause (c), the following clauses shall be substituted, namely:—

"(c) has resided in India throughout the twelve months immediately preceding the date of his application;

(d) has during the twelve years immediately preceding the date of his application resided in India for periods amounting in the aggregate to not less than eight years; and

(e) intends to reside permanently in India."

3. In Schedule I to the said rules, in Form XIX, for item 10, the following shall be substituted, namely:—

"10 (a) I have not been away from India throughout the twelve months immediately preceding the date of this application.

(b) I have resided in India during the twelve years immediately preceding the date of this application for periods amounting in the aggregate to not less than eight years.

(c) I intend to reside permanently in India."

[No. F. 2/1/60-I.C.]

FATEH SINGH, Jt. Secy.

New Delhi, the 17th September 1960

S.O. 2291.—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that the Administrators of the Union territories of Delhi, Himachal Pradesh, Manipur and Tripura shall, subject to the control of the President and until further orders, exercise the powers and discharge the functions of the appropriate Government under the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 (31 of 1959), within their respective jurisdictions, in relation to any such establishment as is referred to in sub-clause (2) of clause (a) of section 2 of that Act.

[No. 2/11/60-Judl.II.]

K. R. PRABHU, Dy. Secy.

CABINET SECRETARIAT

New Delhi, the 13th September 1960

S.O. 2292.—In pursuance of sub-section (1) of section 8 of the Indian Statistical Institute Act, 1959 (57 of 1959), the Central Government hereby appoints a Committee consisting of—

Chairman

1. Shri D. C. Sharma, Member, Lok Sabha.

Members

2. Prof. K. B. Madhava.

3. Prof. B. N. Ganguli, Director, Delhi School of Economics.

4. Shri A. C. Bose, Joint Secretary, Ministry of Finance.

5. Shri P. C. Mathew, Joint Secretary in the Cabinet Secretariat and Director, Central Statistical Organisation.

and assigns the following duties to the said Committee, namely:—

(a) the preparation and submission to the Central Government of statements showing programmes of work agreed to be undertaken by the Institute during the financial year 1961-62 for which the Central Government may provide funds as well as general financial estimates in respect of such work; and

(b) the settlement on broad lines of the programme of such work.

2. The Central Statistical Organisation will perform the Secretariat functions of the Committee, the headquarters of which will be at New Delhi.

[No. 10/5/59-Estt(A).]

M. V. NILAKANTA AYYAR, Under Secy.

MINISTRY OF FINANCE
(Department of Economic Affairs)

New Delhi, the 15th September, 1960

S.O. 2293.—Statement of the Affairs of the Reserve Bank of India, as on the 9th September, 1960.

BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up	5,00,00,000	Notes	14,72,51,000
Reserve Fund	80,00,00,000	Rupee Coin	2,35,000
National Agricultural Credit (Long-term Operations) Fund	40,00,00,000	Subsidiary Coin	5,69,000
National Agricultural Credit (Stabilisation) Fund	5,00,00,000	Bills Purchased and Discounted:—	
Deposits :—		(a) Internal . . . . .	..
(a) Government		(b) External . . . . .	..
(1) Central Government	62,63,18,000	(c) Government Treasury Bills	27,26,48,000
(2) Other Governments	27,25,09,000	Balances held abroad*	22,67,47,000
(b) Banks	115,67,53,000	Loans and Advances to Governments**	29,17,69,000
(c) Others	89,85,38,000	Other Loans and Advances †	148,57,40,000
Bills Payable	16,16,40,000	Investments	202,76,80,000
Other Liabilities	15,67,56,000	Other Assets	11,98,75,000
	RUPEES . 457,25,14,000		RUPEES . 457,25,14,000

*Includes Cash & Short term Securities.

**Includes Temporary Overdrafts to State Governments.

† The item 'Other Loans and Advances' includes Rs. 10,67,30,000/- advanced to scheduled banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

Dated the 14th day of September, 1960

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 9th day of September, 1960

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department .	14,72,51,000		A. Gold Coin and Bullion:--		
Notes in circulation	1808,21,70,000		(a) Held in India	117,76,93,000	
Total Notes issued		1822,94,21,000	(b) Held outside India . .	..
			Foreign Securities	123,00,89,000	
			TOTAL OF A		240,76,92,000
			B. Rupee Coin		137,51,53,000
			Government of India Rupee Securities		1451,65,76,000
			Internal Bills of Exchange and other commercial paper . . . . .		..
TOTAL LIABILITIES		1822,94,21,000	TOTAL ASSETS		1822,94,21,000

Dated the 14th day of September, 1960.

H. V. R. INGAR,
Governor.

[No. F. 3(2)-BC/60.]

A. BAKSI, Jt. Secy.

(Department of Revenue)

ESTATE DUTY

New Delhi, the 14th September 1960

S.O. 2294.—In exercise of the powers conferred by sub-section (3) of section 4 of the Estate Duty Act, 1953 (34 of 1953), the Central Government hereby appoints with effect from the 16th August, 1960, the persons whose names are given in the Appendix as Valuers for the purposes of the said Act for a period of three years from the date of such appointment.

2. The scale of charges for the remuneration of valuers appointed by the Central Government for valuing any property shall be as fixed below and no such valuer shall charge a fee at a scale higher than the scale so fixed.

Scale of charges

On the first Rs. 50,000 of the property so valued— $\frac{1}{2}$ per cent of the value.

On the next Rs. 1,00,000 of the property so valued— $\frac{1}{4}$ per cent of the value.

On the balance of the property so valued— $\frac{1}{8}$ per cent of the value.

APPENDIX

S. No.	Name	Address
1	2	3

I—Engineers/Surveyors/Architects

- 1 Shri Mullick, Uditindu Prakash, B.E., B.Sc. C/o Hope Johnstone & Son, C.E., A.M.I.E. 9, Hastings Street, Calcutta.
- 2 Shri Sarbadhikary, D.N., B.E., M.I.E. (India) 10, Old Post Office Street, 3rd Floor, Calcutta-1.
- 3 Shri Dave, M.B., G.D. Arch., F.I.I.A. 24, Residency, Baroda-2.
- 4 Shri Palkar, Dinker Ramchandra, B.E. (Civil). Karmarkar's Wada, Peth Bhag, Sangli.
- 5 Shri Bhambri, D.R., C.E., A.M.I.E. Kingsway, Nagpur-1.
- 6 Mohd. Ibrahim, B.E., M.I.E., 6-2-43, A.C. Gaurds, Hyderabad, Deccan.
- 7 Shri Ray, Haimajaranjan, B.E., C.E., M. J.E. 99-5-7, Ballygunge Place, Calcutta-4.

II—Accountants

- 1 Shri Chakravarti, D.N., M.A., B.L., F.C.A. 135, Canning Street, Calcutta.
- 2 Shri Chaudhury, N.C., B.Sc., F.R.E.S., 5 & 6, Hare Street, Calcutta-1.
- 3 Shri Dandekar, S.B., B. Com., G.D.A., 129, Radha Bazar Street, Calcutta-1.
- 4 Shri Ghosh, S.K., F.C.A., B.Sc., F.S.A.A. 10, Old Post Office Street, Calcutta-1.
- 5 Shri Roy, A.C., B.A., F.S.A.A., F.C.A., 1-B, Old Post Office Street, Calcutta-1.
- 6 Shri Roy, J.M., F.C.A. Temple Chambers (2nd floor), 6, Old Post Office Street, Calcutta-1.
- 7 Shri Saha, R.N., B.Sc., F.C.A. 79/4 N, Ruja Naba Krishna Street, Calcutta-5.
- 8 Shri Singhi, Ramchandra, B.A., F.C.A., 1-B, Old Post Office Street, Calcutta-1.
- 9 Shri Billimoria Bhikhaja S., F.C.A. 113, Mahatma Gandhi Road, Fort Bombay.
- 10 Shri Nerurkar, A.N., B.Com., A.C.A. Plot No. 247, Matunga, Bombay-19.
- 11 Shri Shah Khimji Kunverji, G.D.A., F.C.A. Bombay Mutual Building, Hornby Road, Fort Bombay.
- 12 Shri Rao C.P. Krishna, G.D.A., A.C.A. 6, Gopalapuram, 2nd Street, Madras-6.

S.No. 1	Name 2	Address 3
13	Shri Subramanian K., B.A., F.C.A.	10, Pernual Tank Sq., Madurai.
14	Shri Varma, Kerala, B.A., B.Com., G.D.A., F.C.A.	C/o Varma and Varma, New Road, Cochin-4.
15	Shri Dastgir Syed Ghulam, B.Com., F.C.A.	C/o S.G., Dastgir and Company, No. 85, A.C. Guards, Hyderabad-Deccan.

III—Works of Art.

1	Shri Ganguly, O.C.	2, Ashutosh Mukherjee Road, Calcutta-20.
2	Shri R. Krishnadasa	Bharat Kala Bhavan, Hindu University, Varanasi-5.

[No. 24/F. No. 5/5/60-ED.]

M. B. PALEKAR, Dy. Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 19th September 1960

S.O. 2295.—In exercise of the powers conferred by sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (11 of 1922), the Central Board of Revenue hereby makes the following further amendments in the Schedule appended to its notification S.O. 860 No. 35—Income-tax dated the 22nd April 1959:—

In the Schedule under the Sub-head "I-Andhra Pradesh", against

A-Range Hyderabad: The existing entry "4. Kurnool" shall be deleted and the subsequent entries 5, 6 and 7 will be renumbered as 4, 5 and 6.

Guntur Range: After the existing entry "7-Tirupathi" the following will be added, namely:—

"8. Kurnool"

Rajahmundry Range: The existing entry "3-Palacole" shall be deleted.

Visakhapatnam Range: After the entry "3-Eluru" the following will be added namely:—

"4-Palacole".

The notification shall have effect from the 1st October 1960.

Explanatory Note

NOTE.—The amendments have become necessary on account of the re-organisation of the Appellate Assistant Commissioners' Ranges in the charge of the Commissioner of Income-tax, Andhra Pradesh.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 88 (F. No. 50/1/60-IT).]

S.O. 2296.—In exercise of the powers conferred by sub-section (2) of section 5 of the Indian Income-tax Act, 1922 (11 of 1922) and in partial modification of all previous notifications on the subject the Central Board of Revenue hereby directs that with effect from 12th September 1960 (forenoon) Shri S. P. Jain, a Commissioner of Income-tax, shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or such incomes or classes of incomes or such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the State of West Bengal as specified below:—

1. Companies District I, Calcutta.
2. Companies District III, Calcutta.

3. Midnapur.
4. Asansol.
5. Refund Circle, Calcutta.
6. Howrah.
7. 24-Parganas.
8. Burdwan-Birbhum.
9. Jalpaiguri.
10. Special Survey Circle VIII, Calcutta.
11. District VI, Calcutta.
12. District III(I), Calcutta.
13. Murshidabad-Nadia.
14. Hoogly.
15. Darjeeling Circle, Siliguri.
16. Cinema Circle I.
17. District III-A, Calcutta.
18. Central Salaries Circle, Calcutta.
19. Special Survey Circle VII, Calcutta.
20. Non-Companies (Income-tax-cum-Excess Profits Tax) District I, Calcutta.
21. District II(2), Calcutta.
22. Foreign Section, Calcutta.
23. Cooch-Behar.
24. West Dinajpur-Malda.
25. Estate Duty-cum-Income-tax Circle, Calcutta.
26. Estate Duty-cum-Income-tax Circle (Mofussil), Calcutta.
27. Estate Duty-cum-Income-tax Circle, Jalpaiguri.
28. Bankura-Purulia, Purulia.
29. District III (3), Calcutta.
30. Project Circle I.

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him.

Provided further that he shall not perform his functions in respect of such persons or such cases as have been or may be assigned to any Income-tax Authority outside his jurisdictional area.

While performing the said functions the said Shri Jain shall be designated as the Commissioner of Income-tax with headquarters at Calcutta.

Explanatory Note

NOTE.—The amendments have become necessary due to a change in the incumbent of Commissioner's post.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 89 (F. No. 55/1/60-IT).]

D. V. JUNNARKAR, Under Secy.

ESTATE DUTY.

New Delhi, the 20th September 1960

S.O. 2297.—In exercise of the powers conferred by section 4 of the Estate Duty Act, 1953 (34 of 1953), read with rule 6 of the Estate Duty Rules, 1953, the Central Board of Revenue hereby transfers with effect from 1st October, 1960, the cases relating to the estates of the deceased persons who immediately before their

death were being or would have been assessed to income-tax had they derived any taxable income in any Income-tax Circle the headquarters of which lies within the revenue district of Chitaldurg from the Assistant Controller, Estate Duty-cum-Income-tax Circle, Bangalore to the Assistant Controller, Estate Duty-cum-Income-tax Circle, Dharwar.

Explanatory Note.

(This note is not part of the notification, but is intended to be merely clarificatory).

This notification has become necessary due to the transfer of the Chitaldurg District from the jurisdiction of the Estate Duty-cum-Income-tax Circle, Bangalore to the Estate Duty-cum-Income-tax Circle, Dharwar with effect from the 1st October, 1960.

[No. 25/F. No. 21/92/60-ED.]

New Delhi, the 20th September 1960

S.O. 2298.—In exercise of the powers conferred by the second proviso to sub-section (2) of Section 4 of the Estate Duty Act, 1953 (34 of 1953) and in supersession of its notification No. 10/F. No. 4/48/58-ED dated the 4th May 1959 the Central Board of Revenue hereby directs that, subject to the pecuniary limits specified in the notification of the Central Board of Revenue No. 11-ED/21/52/57-ED, dated the 5th September, 1957 as amended by its notification No. 8/F. No. 12/1/59-ED dated the 1st April 1959, every Income-tax Officer appointed to be an Assistant Controller and posted to the Estate Duty-cum-Income-tax Circle, Dharwar and every Inspecting Assistant Commissioner of Income-tax appointed to be a Deputy Controller and exercising jurisdiction over the said Circle shall perform his functions as Assistant Controller and Deputy Controller respectively in the said Circle to the exclusion of all other Assistant Controllers or Deputy Controllers in respect of the estates of all deceased persons who immediately before their death were being or would have been assessed to income-tax had they derived any taxable income in any Income-tax Circle the headquarters of which lies within the revenue districts of Dharwar, Belgaum, North Kanara, Gulbarga, Bijapur, Raichur, Bidar, Bellary and Chitaldurg.

2. This notification shall take effect from the 1st October 1960.

Explanatory Note

(This note is not part of the notification but is intended to be merely clarificatory).

This notification has become necessary due to the transfer of the Chitaldurg District from the jurisdiction of the Estate Duty-cum-Income-tax Circle, Bangalore to the Estate Duty-cum-Income-tax Circle, Dharwar.

[No. 26/F. No. 21/92/60-ED.]

S.O. 2299.—In exercise of the powers conferred by the second proviso to sub-section (2) of section 4 of the Estate Duty Act, 1953 (34 of 1953) and in supersession of its notification No. 9/F. No. 4/48/58-ED dated the 4th May 1959, the Central Board of Revenue hereby directs that, subject to the pecuniary limits specified in the notification of the Central Board of Revenue No. 11-ED/21/52/57-ED, dated the 5th September, 1957 as amended by its notification No. 8/F. No. 12/1/59-ED, dated the 1st April, 1959, every Income-tax Officer appointed to be an Assistant Controller and posted to the Estate Duty-cum-Income-tax Circle, Bangalore and every Inspecting Assistant Commissioner of Income-tax appointed to be a Deputy Controller and exercising jurisdiction over the said Circle shall perform his functions as Assistant Controller and Deputy Controller respectively in the said circle to the exclusion of all other Assistant Controllers or Deputy Controllers in respect of the estates of all deceased persons who immediately before their death were being or would have been assessed to income-tax had they derived any taxable income in any Income-tax Circle the headquarters of which lies within the revenue districts of Bangalore, Kolar, Tumkur, Shimoga, Mysore, Mandya, Coorg, South Kanara, Chickmagalur and Hassan.

2. This notification shall take effect from 1st October, 1960.

Explanatory Note.

(This note is not part of the notification but is intended to be merely clarificatory).

This notification has become necessary due to the transfer of the Chitaldurg District from the jurisdiction of the Estate Duty *cum* Income-tax Circle, Bangalore to the Estate Duty *cum* Income-tax Circle, Dharwar.

[No. 27/F. No. 21/92/60-ED.]

M. B. PALEKAR, Secy.

CUSTOMS

New Delhi. the 24th September 1960

S.O. 2300.—In exercise of the powers conferred by section 75 of the Sea Customs Act, 1878 (8 of 1878), and in supersession of all previous rules on the subject, the Central Board of Revenue hereby makes the following rules in connection with the passing of passengers' baggage imported from or exported to the foreign ports in the Portuguese territories in India, by sea, land or air, namely:—

RULES

1. (i) These rules may be called the Passengers Boggage (Portuguese possessions in India) Rules, 1960.

(ii) They shall come into force on and from the 1st of October, 1960.

2. The bonafide baggage of a passenger is exempt from duty when it accompanies him.

3. For the purposes of these rules, the expression "bonafide baggage" shall include—

(a) used wearing apparel, bedding and personal effects consisting of articles specified in the Schedules hereto annexed provided that the articles,—

(i) have been the property of and are in the possession of the passenger and are brought for his personal use or for the use of any member of his family travelling with him, and show definite signs of use, and

(ii) are not intended for sale or for the use of other parties;

(b) articles brought by a passenger and proved to the satisfaction of the Officer of Customs to have belonged to his deceased wife or other deceased member of his family who was dependent on him at the time of death, provided that the personal effects or articles are such as would have been passed free of duty if the deceased person had been a passenger and such effects or articles had been brought by him.

SCHEDULE I : IMPORT

- | | | |
|----------------------|-----------|--|
| 1. Baggage | | Weight not exceeding 66 lbs. (inclusive of container or containers) per adult or child |
| 2. Personal Clothing | | All <i>used</i> personal clothing. |
| 3. Jewellery | | (a) Females— |
| | | (i) adults that is of 18 upto Rs. 500/- in value—
years of age and above ; per head |
| | | (ii) children below 18 years upto Rs. 250/- in value,
of age ; per head |
| | | (b) Males— |
| | | adults and children . . . upto Rs. 250/- in value. |
| 4. Watches | | One per adult or child over 12 years. |
| 5. Fountain pens | | One per adult or child over 12 years. |
| 6. Toilet Requisites | | As required for the journey. |

- | | |
|--|--|
| 7. Suitcases or Trunk | One each per adult or child. |
| 8. Handbag | One each per adult or child. |
| 9. Spectacles and or Sun glasses | One each per adult or child. |
| 10. Cigarettes, Tobacco, Snuffs | 20 cigarettes or one oz. tobacco or one oz. snuff. |
| 11. Foodstuffs | As required for the journey. |
| 12. Tiffin carriers,
Thermos Flask,
Cooking utensils,
Crockery and cutlery etc. | } As required for the journey. |
| 13. Bedding, Holdall or Bed-roll | One each per adult or child. |
| 14. Other household effects | Nil. |
| 15. Medicines | As required for the journey. |

NOTE : For purpose of valuation, the value of watches will be taken along with that of jewellery and should not exceed the total monetary ceiling indicated under the item 'Jewellery'.

SCHEDULE II : EXPORT

All items as in Schedule I with the following changes :—

- | | |
|-----------------------------|---|
| Household effects | Without restriction or limit but within the maximum baggage weight allowed. |
| Books | Without restriction or limit but within the maximum baggage weight allowed. |

[No. 105.]

LAND CUSTOMS

New Delhi, the 24th September 1960

S.O. 2301.—In exercise of the powers conferred by sub-section (1) of section 3 of the Land Customs Act, 1924 (19 of 1924), read with the notification of the Government of India in the late Finance Department (Central Revenues) No. 5944, dated the 13th December, 1924 and in supersession of Central Board of Revenue Notification No. 110-Cus. dated the 18th September 1954 as amended, the Central Board of Revenue, hereby appoints for the areas adjoining the foreign frontier separating Portuguese territory from India, the Officers of the State Government of Gujarat, specified in the Schedule hereto annexed, to be Land Customs Officers within the jurisdiction of the Collector of Land Customs, Baroda.

THE SCHEDULE

(a) All Police Officers posted for duty in the Districts of Amreli and Junagadh, holding the ranks of —

- (1) District Superintendent of Police,
- (2) Deputy Superintendent of Police,
- (3) Assistant Superintendent of Police,
- (4) Inspector of Police,
- (5) Sub-Inspector of Police,
- (6) Head Constable, and
- (7) Constable.

(b) All Officers of the Gujarat State Reserve consabulary posted for duty in the districts of Amreli and Junagadh holding the ranks of—

- (1) Commandant (District Superintendent of Police),
- (2) Assistant Commandant (Assistant Superintendent of Police or Deputy Superintendent of Police),
- (3) Adjutant,
- (4) Battalion Commander (Inspector of Police),
- (5) Company Commander (Sub-Inspector of Police),
- (6) Platoon Commander,
- (7) Section Commander (Head Constable), and
- (8) Constable.

(c) Deputy Superintendent of Police, Anti-corruption and Prohibition Intelligence, Ahmedabad, Police Sub-Inspector, Anti-corruption and Prohibition Intelligence, Mehsana

[No. 6 F. No. 90/37/58-L.C.I.]

S.O. 2302.—In exercise of the powers conferred by sub-section (1) of section 3 of the Land Customs Act, 1924 (19 of 1924), read with the Notification of the Government of India in the late Finance Department (Central Revenues) No. 5944 dated the 13th December, 1924, the Central Board of Revenue hereby appoints for the areas adjoining the foreign frontiers separating Portuguese Territory from India all the Police Officers of and above the rank of Constable posted for Railway duty in the Surat District of Gujarat State and in the Districts of Greater Bombay and Thana of the Maharashtra State and Belgaum, Dharwar and North Kanara of the Mysore State to be Land Customs Officers within the jurisdiction of the Collector of Land Customs, Bombay.

[No. 7—F. No. 90/37/58-L.C.I.]

S.O. 2303.—In exercise of the powers conferred by sub-section (1) of the section 3 of the Land Customs Act, 1924 (19 of 1924), read with the notification of the Government of India in the late Finance Department (Central Revenues) No. 5944, dated the 13th December, 1924 and in supersession of the Central Board of Revenue Customs Notification No. 110 dated the 18th September, 1954, the Central Board of Revenue, hereby appoints for the areas adjoining the foreign frontier separating Portuguese territory from India, the Officers of the State Governments of Gujarat, Maharashtra and Mysore specified in the Schedule hereto annexed to be Land Customs Officers, within the jurisdiction of the Collector of Land Customs, Bombay.

THE SCHEDULE

(a) All Police Officers posted for duty in the Surat Districts of Gujarat State, Thana and Ratnagiri Districts of the Maharashtra State and the Districts of North Kanara, Belgaum and Dharwar of the Mysore State holding the ranks of:—

- (1) District Superintendent of Police,
- (2) Deputy Superintendent of Police,
- (3) Assistant Superintendent of Police,
- (4) Inspector of Police,
- (5) Sub-Inspector of Police,
- (6) Head Constable, and
- (7) Constable.

(b) All Officers of the Maharashtra State Reserve Police Constabulary posted for duty in Ratnagiri District of Maharashtra State and Surat District of Gujarat State, North Kanara, Belgaum and Dharwar Districts of Mysore State holding the ranks of:—

- (1) Battalion Commander (Inspector of Police).
- (2) Company Commander (Sub-Inspector of Police)
- (3) Platoon Commander. }
- (4) Section Commander. } Head-Constable.
- (5) Constable.

(c) Deputy Superintendent of Police, Anti-Corruption measures, Belgaum of Mysore State, Inspector of Police, Anti-Corruption measures Belgaum and Dharwar of Mysore State, Sub-Inspector of Police, Anti-Corruption measures at Belgaum, Dharwar and Karwar of Mysore State.

[No. 8—F. No. 90/37/58-L.C.I.]

M. C. DAS, Secy.

COLLECTORATE OF CENTRAL EXCISE: WEST BENGAL: CALCUTTA

CENTRAL EXCISE

Calcutta, the 12th September, 1960

S.O. 2304.—In exercise of the powers conferred on him by Rule 5 of the Central Excise Rules, 1944 the undersigned hereby authorises the Assistant Collectors in this Collectorate to exercise the powers of Collector under Rule 96 f(4) *ibid* within their respective jurisdictions.

[No. 7/1960.]

A. K. ROY, Collector.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, BOMBAY

NOTICE

Bombay, the 14th September 1960

S.O. 2305.—Whereas it appears that the marginally noted Indian Currency which was seized by the Inspector, Central Excise and Land Customs Majali on 15th August, 1960, at a place called 'Futagall' on the Customs line in the jurisdiction of Chirta Chowkey on the Indo Goa Frontier was attempted to be exported by land to Goa in contravention of section 5(1) of the Land Customs Act, 1924 and the Reserve Bank of India Notification No. F.E.R.A. 105/51/R.B. dated 27th February, 1951, as amended issued under section 8(2) of the Foreign Exchange Regulation Act, 1947 and deemed to have been issued under section 19 of the Sea Customs Act, 1878. Now therefore, any person claiming the currency is hereby called upon to show cause to the Collector of Central Excise and Land Customs Bombay, why the above-mentioned Indian Currency should not be confiscated under section 167(8) of the Sea Customs Act, 1878 along with the cloth hand bag under section 168 of the Sea Customs Act, 1878 as applied to the Land Customs Act, 1924 and why a penalty should not be imposed on him under section 7(1)(b) of the Land Customs Act, 1924 read with section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed currency or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette/Maharashtra Government Gazette, the Indian currency in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10(39)Cus/60.]

G. KORUTHU, Collector.

OFFICE OF THE SUPERINTENDENT OF CENTRAL EXCISE AND LAND CUSTOMS, VAPI

NOTICES

Vapi, the 12th September, 1960.

S.O. 2306.—Whereas it appears that the marginally noted unclaimed goods which were seized by the S.R.P. at Balitha near Border on 31st July 1960 were imported from Daman by an unauthorised route by land in contravention of section 5(i) of the Land Customs Act 1924 and the Government of India, Ministry of Commerce and Industry Imports (Control) Order No. 17/55 of 7th December 1955 as amended and issued under section 3 and 4A of the Imports and Exports (Control) Act 1947 and deemed to have been issued under section 19 of the Sea Customs Act 1878.

Description.	Qty.	Value
Wrist watches having marks Roldgold, Swiss made Wingo 23 jewels, Stainless steel back, Antimagnetic, Swiss made water-proof, Shock proof, No. 91632.	50 Nos.	6250.00

2. Now therefore any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise and Land Customs, Bombay Division, III Central Excise Building, Queen's Road, opposite Churchgate, Bombay why the above mentioned goods should not be confiscated under section 5(3) of the Land Customs Act 1924 and

section 167(8) of the Sea Customs Act 1878 read with section 3(2) of the Imports and Exports (Control) Act 1947 and why a penalty should not be imposed on him under section 7(1) (c) of the Land Customs Act 1924 read with section 167(8) of the Sea Customs Act 1878.

3. If such an owner fails to turn up to claim the abovementioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India, Gazette/Government of Maharashtra Gazette, the goods in question will be treated as unclaimed property and the case will be decided accordingly, by the Assistant Collector of Central Excise and Land Customs Bombay Division. III.

[No. VIII(b) 15-179/60]

S. O. 2307.—Whereas it appears that the belowmentioned unclaimed goods which were seized by S.R.P. staff at the back side of the Customs Chowkey No. 3 on 10th August 1960 were imported from Daman by land by an unauthorised route in contravention of section 5(1) of the Land Customs Act 1924 and the Government of India, Ministry of Commerce and Industry Imports (Control) Order No. 17/55 of 7th December 1955 as amended and issued under section 3 and 4A of the Imports and Exports (Control) Act 1947 and deemed to have been issued under section 19 of the Sea Customs Act 1878.

2. Now therefore any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise and Land Customs Bombay Division. III, Central Excise Building, Queen's Road, opposite Churchgate Station, Bombay why the belowmentioned goods should not be confiscated under section 5(3) of the Land Customs Act 1924 and section 167(8) of the Sea Customs Act 1878 read with section 3(2) of the Imports and Exports (Control) Act 1947 and why a penalty should not be imposed on him under section 7(1) (c) of the Land Customs Act 1924 read with section 167(8) of the Sea Customs Act 1878, and why a coin of Rs. 0.25 should not be confiscated under Section 168 of S.C. Act, 1878.

3. If such an owner fails to turn up to claim the belowmentioned goods or to show cause against the action proposed to be taken within 30 days from the date of publication of this notice in the Government of India Gazette/ Maharashtra Government Gazette, the goods in question will be treated as unclaimed property and the case will be decided accordingly, by the Assistant Collector of Central Excise and Land Customs, Bombay Division. III.

Description	Quantity	Value
(1) Carbon Pencils (Copying) Six boxes written on it "BLUEB" Total 56 boxes i.e., 55 boxes containing 12 Doz. Pencils each and one box containing 10 Doz.	670 Dozens	6030.00
(2) Lighter Imco Triplex Junior Made in Austria	22 Nos.	88.00
(3) Cloves	4 1/2 Lbs.	31.50
(4) Old and used Water proof bag	1	2.50
(5) Indian Coins . . . . .	..	0.25
(6) Old and used Cotton bag	3	0.50
(7) Old and used half short and half pant	2	0.50
(8) Caps (one black and one white).	2	0.37
(9) Sando Banian old and used	1	0.12
TOTAL . . . . .	..	6153.74

[No. VIII(b)15-179/60.]

J. J. NEWLANDS, Superintendent.,

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, DELHI

PUBLIC NOTICES

New Delhi, the 19th September 1960

SUBJECT.—Manufactured Products-Sugar-Maintenance of R.G. 9 register-Instructions regarding.

S.O. 2308.—It has been noticed that in some Sugar mills in this Collectorate, the number of bags issued and recorded in the R.G. 9 register maintained for empty gunny bags cannot be correlated with the actual number used for bagging

the sugar produced and the number certified as destroyed on any particular day. From the manner in which the registers are maintained, it is not possible to check readily the position on a particular day although it may be possible to effect the reconciliation of all the figures from the stock balance at the close of the season. For an effective control, the R.G. 9 register must show the correct position day to day for which purpose it is necessary to record the actual number of bags taken for use. The balance left in the drier house should also be suitably noted and the number of damaged bags presented for destruction recorded in the same register. These instructions should be adhered to strictly by all the sugar factories in this Collectorate.

[C. No. VI(J)1/1CE/60/45882.]

New Delhi, the 16th September 1960

S.O. 2309.—The Central Excise (Conversion into Metric units) Bill, 1960 has been introduced in Parliament on the 18th August, 1960. The provisions of the Bill when passed by Parliament shall have effect from such date as the Central Government may by Notification appoint. In addition to the conversion of weights and measures into metric units, the Bill seeks to make some changes in the existing Central Excise Tariff. The Central Excise licensees and manufacturers of excisable goods in the jurisdiction of Delhi Central Excise Collectorate are, therefore, required to acquaint themselves with the metric system and the implications of the new Bill. For switching over to Metric System they will immediately arrange for replacement of existing weighing scales, measures and calibration charts etc., by new ones or to have them recalibrated on metric units to avoid any inconvenience to them when the system is introduced.

All Accounts of licensees and manufacturers relating to Central Excise shall be maintained in metric units and the Indian standard conversion Tables shall be used for this purpose.

[C. No. IV(16)23/58/45378.]

K. NARASIMHAN, Collector.

MINISTRY OF COMMERCE & INDUSTRY

New Delhi, the 15th September 1960

S.O. 2310.—The Central Government hereby notifies that the Rajya Sabha has, in pursuance of clause (c) of sub-section (3) of section 4 of the Central Silk Board Act, 1948 (61 of 1948), elected on the 25th August, 1960, Shri T. S. Pattabiraman, a member of the Rajya Sabha to be a member of the Central Silk Board in the vacancy caused by the resignation of Shri J. S. Bisht from the membership of the said Board.

[No. 22(4)/58-HS(2).]

J. C. ELING, Under Secy.

New Delhi, the 19th September 1960

S.O. 2311.—In exercise of the powers conferred by sub-section (1) of section 10 of the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952), and Rule 13 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Central Government, in consultation with the Indian Standards Institution hereby directs that any power exercisable by the said Institution under clause (e) of section 3 of the said Act, shall be exercisable also by the Director of Industries Government of Maharashtra, in relation to the following articles/or classes of articles manufactured within the State of Maharashtra, namely:—

- (i) Zinc Oxide Oil Paste for Paints;
- (ii) Red Oxide Oil Paste for Paints;
- (iii) Oil Bound Distemper (all colours);
- (iv) Boiled linseed oil for paints;

- (v) Ready mixed paint, brushing, white lead for priming and general purposes;
- (vi) Ready mixed paint, brushing, undercoating, exterior;
- (vii) Ready mixed paint, brushing, zinc-chrome, priming;
- (viii) Ready mixed paint, brushing, Red Lead, Non-setting priming;
- (ix) Ready mixed paint, brushing, finishing oil gloss;
- (x) Ready mixed paint, brushing, finishing exterior oil gloss for general purposes; and
- (xi) Aluminium paint, brushing for general purposes.

[No. 23(59)-TMP/59.]

S.O. 2312.—In exercise of the powers conferred by sub-section (1) of section 10 of the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952), and rule 13 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Central Government, in consultation with the Indian Standards Institution, hereby directs that any power exercisable by the said Institution under clause (e) of section 3 of the said Act, shall be exercisable also by the Director of Industries, Government of West Bengal, in relation to the following articles/class of articles manufactured within the State of West Bengal, namely:—

- (i) Locks,
- (ii) Cutlery,
- (iii) Sports Goods,
- (iv) Leather (Footwear),
- (v) Silk woven fabrics,
- (vi) Printed textiles,
- (vii) Inks, and
- (viii) Builders' hardware.

[No. 23(59)-TMP/59.]

ORDERS

EXPORT TRADE CONTROL

New Delhi, the 24th September 1960

S.O. 2313.—In exercise of the powers conferred by sections 3 and 4A of the Imports and Exports (Control) Act, 1947 (18 of 1947), as in force in India and as applied to the State of Pondicherry, the Central Government hereby makes the following further amendments in the Exports (Control) Order, 1958, namely:—

A. In Schedule I to the said Order—

1. Under the heading "A. ANIMALS, FOOD AND DRINK",

(i) For item 5, the following shall be substituted:—

"5. Nuts, the following:—
Cashewnuts (Raw)".

(ii) The following item shall be omitted:—

"13. Vegetable product as defined in item 11 of the first Schedule to the Central Excise and Salt Act, 1944 (I of 1944)".

II. Under the heading "B. RAW MATERIALS AND ARTICLES MAINLY UNMANUFACTURED",

(i) For entry (ii) of item 2(a), the following shall be substituted:—

"(ii) Anhydrite and gypsum with purity of 80 per cent and above",

(ii) The following entries of item 2(a) shall be omitted:—

"(vii) Chrome ores and concentrates,
(xii) Kyanite",

(iii) For entry (xv) of item 2(a), the following shall be substituted:—

"(xv) Manganese ores and concentrates other than those of low grade",

- (iv) The following entry of item 2(a) shall be omitted:—
“(xx) Sillimanite”,
- (v) For entry (xxix) of item 2(a), the following shall be substituted:—
“(xxix) Zinc ores”,
- (vi) The following entry of item 2(b) shall be omitted:—
“(ii) Graphite”,
- (vii) For item 3, the following shall be substituted:—
“3. Scrap containing any of the metals or alloys specified in entry C-9 of this Schedule excluding magnesium alloy scrap”.
- (viii) The following entry of item 6 shall be omitted:—
“(xi) Tarwar seeds”,
- (ix) For entry (xii) of item 6, the following entries shall be substituted:—
“(xii) Russa grass seeds and tufts,
(xiii) Saffron bulbs,
(xiv) Cashewnut seeds”.
- (x) The following item shall be omitted:—
“7(c) Oils, essential, the following:—
(i) Aniseed oil,
(ii) Chenopodium oil,
(iii) Peppermint oil,
(iv) Pine oil”,
- (xi) For item 11, the following shall be substituted:—
“11. Bones, crushed and uncrushed, including bonegrist but excluding uncrushed bones of elephants”.
- (xii) The following item shall be omitted:—
“12. Bort and industrial diamonds”,
- (xiii) For item 15, the following shall be substituted:—
“15. Coal and coke; charcoal, other than ordinary coconut shell charcoal and activated coconut shell charcoal”.
- (xiv) The following entries of item 18 shall be omitted:—
“(i) Gum Arabic,
(ii) Gum Benjamin (Benzoinum),
(iv) Rosin”,
- (xv) For item 26, the following shall be substituted:—
“26. Tanning substances, the following:—
Babool bark other than that required for medicinal purposes and extracts thereof”.
- (xvi) The following item shall be omitted:—
“28. Wax, the following:—
Paraffin wax”.

III. Under the heading “C. ARTICLES WHOLLY OR MAINLY MANUFACTURED”,

- (i) The following entries of item 1(a) shall be omitted:—
“(i) Acetone,
(xi) Bleaching powder,
(xiii) Calcium carbide,
(xiv) Calcium sulphate (Marine gypsum)”,
- (ii) For entry (xxvii) of item 1(a), the following shall be substituted:—
“(xxvii) Mercury”,
- (iii) The following entries of item 1(a) shall be omitted:—
“(xxx) Phenol,
(xxxvii) Sodium bicarbonate,
(xl) Sodium sulphide,

(xli) Sodium sulphite,"

(iv) For entry (vi) of item 3, the following shall be substituted:—

"(vi) Vitamin A-Crude shark liver oil."

(v) The following item shall be omitted:—

"4. Electrical instruments, apparatus and appliances and parts thereof, the following:—

(a) Batteries special (non-commercial),

(b) X-ray equipment."

(vi) The following entries of item 5 shall be omitted:—

"(i) Cameras,

(ii) Cinematograph equipment, excluding cinema talkie machine and spare parts thereof manufactured in India,

(iii) Clinical thermometers,

(iv) Microscopes,

(v) Optical glass formed and unformed other than ophthalmic lenses.

(vi) Optical instruments, all sorts,

(vii) Photographic papers, plates and films used in X-ray photography,

(viii) Scientific instruments, apparatus and appliances, all sorts, other than those of indigenous origin,"

(vii) The following entries of item 6 shall be omitted:—

"(iii) Generators,

(v) Gas engines,

(vii) Kerosene oil engines,

(viii) Steam engines,"

(viii) After entry (c) of item 6(ix), the following shall be inserted:—

"(d) Generators,

(e) Gas engines,

(f) Kerosene oil engines,

(g) Steam engines."

(ix) After entry (b) of item 9(a)(ii), the following shall be inserted:—

"(c) Debased (non-standard) soft alloys conforming to specified chemical analysis,

(d) Zinc white metals of specified chemical analysis."

(x) For entry (vi) of item 9(a), the following shall be substituted:—

"(vi) Copper, unwrought and wrought, excluding copper sheets, circles, strips, plates and bare copper wires and conductors for electrical purposes,"

(xi) For entry (vii) of item 9(a), the following shall be substituted:—

"(vii) Copper alloys (other than brass) unwrought and wrought-plates, sheets, discs, strips and circles excluding copper base alloys conforming to standard specifications BSS, ASTM, ISI and German specifications,"

(xii) For entry (viii) of item 9(a), the following shall be substituted:—

"(viii) Ferro alloys including ferro-chrome, ferro-phosphorus, ferro-silicon, ferro-titanium, ferro-tungsten, ferro-vanadium, and ferro-molybdenum, but excluding ferro-manganese,"

(xiii) For entry (xi) of item 9(a), the following shall be substituted:—

"(xi) Lead, pig,"

(xv) For entry (xx) of item 9(a), the following shall be substituted:—

"(xiv) Nickel, nickel oxide, nickel matte and nickel alloys excluding spent nickel catalyst,"

(xv) For entry (xx) of item 9(a), the following shall be substituted:—

"(xx) Zinc or spelter, unwrought and wrought, excluding zinc plates, sheets, discs, strips, bottoms and circles,"

(xvi) For item 12, the following shall be substituted:—

"12. Paper, the following:—
Newsprint."

(xvii) For entry (ix) of item 15, the following shall be substituted:—

"(ix) Silk yarn except hand spun silk yarn made out of silk waste,"

(xviii) The following entry of item 15 shall be omitted:—

"(x) Staple fibre yarn,"

(xix) For entry (ii) of item 18, the following shall be substituted:—

"(ii) Parts of motor vehicles excluding producer gas plants and gaskets,"

(xx) The following item shall be omitted:—

"19. Vessels for inland and harbour navigation and parts thereof."

B. In Schedule IV to the said Order—

Under the heading "O.G.L. No. 4", the following shall be omitted:—

"1(c) Phenol.

3. Fruits, the following:—

(b) Green coconuts."

[No. Export (1)/AM(32).]

M. H. SIDDIQI, Under Secy.

ORDER

New Delhi, the 12th September 1960

S.O. 2314.—In exercise of the powers conferred on me under Clause 3 of the Scooters (Distribution and Sale) Control Order, 1960, I hereby make the following order, namely:—

- (i) The following manufacturers shall reserve the quotas of scooters shown against each for priority allocation by the Central Government during the quarter ending 30th November, 1960 and during each succeeding quarter.

Name of the manufacturer	Quota of Scooters
M/s. Automobile Products of India Ltd., Bombay.	300 (three hundred) per quarter.
M/s. Bajaj Auto Private Ltd., Bombay.	75 (seventy five) per quarter.

- (ii) Each manufacturer shall reserve not more than 2 (two) per cent of its production or 25 (twenty five) scooters per month, whichever is higher, as a quota for disposal by it at its discretion.

[No. A.E. Ind. 13(10)/60.]

B. K. VARMA,
Controller of Scooters.

ORDER

New Delhi, the 15th September 1960

S.O. 2315/IDRA/18G/34/60.—In exercise of the powers conferred by Section 18G of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby makes the following amendment in the Cement Control Order, 1958, namely:—

In the schedule to the said Order, after Serial No. 19, the following shall be added, namely:—

"20. Messrs Madras Cement Ltd., Ramamandiram, Rajapalaiyam—
Rs. 70,00."

[No. Cem. 8(26)/60.]

M. L. GUPTA, Under Secy.

ORDER

New Delhi, the 16th September 1960

S.O. 2316/DCPR.—In pursuance of Clause (c) of Rule 2 of the Development Councils (Procedural) Rules, 1952 and in supersession of the Order of the Government of India in the Ministry of Commerce & Industry S.O. No. 1413 dated the 30th May, 1960, the Central Government hereby appoints Shri M. J. Patwardhan, Assistant Director, Office of the Textile Commissioner, Bombay, as Secretary to the Development Council established by the Order of the Government of India in the Ministry of Commerce & Industry S.O. No. 2506/IDRA/6/11 dated the 3rd November, 1959 published in Part II—Section 3, sub-section (ii) of the Gazette of India dated the 7th November 1959, for the scheduled Industries engaged in the manufacture or production of textiles made of artificial silk, including artificial silk yarn *vice* Shri B. K. Shahani.

[No. 4(11)IA(IV)/59.]

P. MADHAVAN NAIR, Under Secy.

(Indian Standards Institution)

New Delhi, the 14th September, 1960

S.O. 2317.—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that four licences, particulars of which are given in the Schedule hereto annexed have been renewed.

THE SCHEDULE

Serial No.	Licence No. and Date	Period of Validity		Name and Address of the Licensee	Article covered by the licence	Relevant Indian Standard
		From	To			
1	CM/L-14 3-9-1956	10-9-1960	9-9-1961	The Metal Rolling Works Private Limited, 104, Sion-Matunga Estate, Sion, Bombay-22.	Wrought Aluminium and Aluminium Alloy Sheets, Strips, and Circles	IS: 21-1959 Specification for Wrought Aluminium and Aluminium Alloys for Utensils (<i>Second Revision</i>).
2	CM/L-31 4-9-1957	16-9-1960	15-9-1961	Messrs. Tata-Fison Private Limited, Bombay House, Bruce Street, Bombay-1.	(1) BHC Dusting Powders (2) BHC Water Dispersible Powder Concentrates	IS: 561-1958 Specification for BHC Dusting Powders (<i>Revised</i>) IS: 562-1958 Specification for BHC Water Dispersible Powder Concentrates (<i>Revised</i>).
3	CM/L-139 28-8-1959	16-9-1960	15-9-1961	Messrs. Tata-Fison Private Limited, Palluruthy, Cochin, Kerala State.	DDT Water Dispersible Powder Concentrates	IS: 565-1955 Specification for DDT Water Dispersible Powder Concentrates.
4	CM/L-140 28-8-1959	16-9-1960	15-9-1961	Messrs. Tata-Fison Private Limited, Palluruthy, Cochin, Kerala State.	BHC Water Dispersible Powder Concentrates	IS: 562-1958 Specification for BHC Water Dispersible Powder Concentrates (<i>Revised</i>).



[No. MD/12 : 88]

New Delhi, the 16th September 1960

S.O. 2318.—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Indian Standards Institution hereby notifies that the Standard Mark, design of which together with the verbal description of the design and the title of the relevant Indian Standard is given in the Schedule hereto annexed, has been specified.

This Standard Mark, for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the rules and regulations framed thereunder, shall come into force with effect from 1 October 1960.

THE SCHEDULE

Sl. No.	Design of the Standard Mark	No. and title of relevant Indian Standard	Verbal description of the design of the Standard Mark
1	2	3	4
1		IS: 1132-1958 Specification for Bicycle Bottom Bracket Adjustable Cup	The monogram of the Indian Standards Institution, consisting of letters ISI, drawn in the exact style and relative proportions as indicated in column (2), the number designation of the Indian Standard being super-scribed on the top side of the monogram as indicated in the design.
2		IS: 1134-1958 Specification for Bicycle Bottom Bracket Lacking Nut	The monogram of the Indian Standards Institution, consisting of letters ISI, drawn in the exact style and relative proportions as indicated in column (2), the number designation of the Indian Standard being super-scribed on the top side of the monogram as indicated in the design.

[No. MD/17:2]

S.O. 2319.—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed, have been established during the period 1st September to 15th September 1960.

THE SCHEDULE

Sl. No.	No. and title of the Indian Standard established	No. and title of the Indian Standard or Standards, if any, superseded by the new Indian Standard	Brief Particulars
1	2	3	4
1	IS: 932-1960 Specification for 30-34 m (Or 100-110 ft.) Mechanically Operated Turn-Table Ladder for Fire Brigade Use	..	This standard lays down requirements regarding material, design and construction, workmanship and finish, accessories and equipment and acceptance tests of 30-34 m (or 100-110 ft.) mechanically operated turntable ladder for fire brigade use. This ladder is suitable for use as a water tower, or for rescue purposes either as a staircase or by lowering a person in a sling from the head of the ladder. (Price Rs. 4.00)

1	2	3	4
2	IS: 1194-1960 Forms for Recording Measurement of Flow of Water in Open Channels	..	<p>This standard lays down the forms for recording measurement of flow of water in open channels. The forms covered are:</p> <p>Form 1 Record of Gauges, Form 2 Record of Water Level, Form 3 Weekly Sheet Showing Hourly Record of Water Level During Flood Period,</p> <p>Form 4 Record of Cross-Section,</p> <p>Form 5 Computation of Discharge from Float Measurement,</p> <p>Form 6 Computation of Discharge from Current Meter Measurements,</p> <p>Form 7 Computation of Discharge by Slope Area Method, and</p> <p>Form 8 Composite Form for Record of Daily Discharge Data. (Price Rs. 3.00)</p>
3	IS: 1498-1959 Classification and Identification of Soils for General Engineering Purposes	.	<p>This standard covers the classification and identification of soils, with a view to assessing their suitability for general engineering purposes. (Price Rs. 3.50)</p>
4	IS: 1546-1960 Method for Determination of Arsenic in Iron and Steel	..	<p>This standard prescribes the method for determination of arsenic in iron and steel. (Price Rs. 1.50)</p>
5	IS: 1547-1960 Specification for Infant Milk Foods	..	<p>This standard prescribes the requirements and the methods of test for infant milk foods intended for general feeding of infants as a substitute for mother's milk. (Price Rs. 4.50)</p>
6	IS: 1551-1959 Specification for Carbon Paper for Typewriters	..	<p>This standard prescribes the requirements and the methods of test for carbon paper for use with typewriters. (Price Rs. 2.00)</p>
7	IS: 1558-1960 Specification for Vaporizing Oil	..	<p>This standard prescribes the requirements and the methods of test for vaporizing oil used in the country. (Price Re. 1.00)</p>

1	2	3	4
8	IS:1567-1960 Specification for Metal Clad Switches (Current Rating Not Exceeding 100 Amperes)	..	This standard specifies the requirements and tests for metal clad switches suitable for a maximum voltage of 650 V between poles, and current rating not exceeding 100A. These switches may consist of any series combination of air-break switches and fuses forming a composite unit, having not more than three fused poles with or without neutral, within metallic enclosure (or enclosures), and are intended for use on D.C. systems, and AC systems whose frequency, unless otherwise specified, is 50 cycles per second. (Price Rs. 4.00)
9	IS:1571-1960 Specification for Aviation Turbine Fuels, Kerosine Type	..	This standard prescribes the requirements and methods of test for aviation turbine fuels, kerosine type used in turbo-prop and jet engine aircrafts. (Price Rs. 1.00)
10	IS:1572-1960 Specification for Cadmium Plating	..	This standard covers three grades and three types of protective coatings of cadmium on iron and steel. It includes requirements of cadmium plating with supplementary chromate or phosphate treatment. (Price Rs. 2.50)
11	IS:1574-1960 Specification for Glass Weighing Bottles	..	This standard prescribes the requirements and methods of test for glass weighing bottles used in scientific laboratories. (Price Rs. 2.00)
12	IS:1580-1960 Specification for Bitumen (Plastic) for Waterproofing Purposes	..	This standard deals with the requirements and methods of test for plastic bitumen used as a leak stop for waterproofing cracked or porous masonry and concrete floors and walls. (Price Rs. 2.00)

Copies of these Indian Standards are available for sale with the Indian Standards Institution "Manak Bhavan", 9 Mathura Road, New-Delhi-1 and also at its Branch Offices at (i) 232 Dr. Dadabhoy Naoroji Road, Bombay-1, (ii) P-11 Mission Row Extension, Calcutta-1, and (iii) 2.21 First Line Beach, Madras-1.

[No. MD/13:2.]

S.O. 2330.—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the marking fee per unit for certain products/classes of products, details of which are given in the Schedule hereto annexed, has been determined and the fee shall come into force with effect from 1 October 1960.

THE SCHEDULE

Sl. No.	Product/Class of Products	No. and title of relevant Indian Standard	Unit	Marking Fee per Unit
1	Bicycle Bottom Bracket Adjustable Cup	IS:1132-1958 Specification for Bicycle Bottom Bracket Adjustable cup.	One gross	70 nP Per unit with a minimum of Rs. 1,000/- for production during a calendar year.
2	Bicycle Bottom Bracket Locking Nut	IS:1134-1958 Specification for Bicycle Bottom Bracket Locking Nut	One gross	50 nP per unit with a minimum of Rs. 1,000/- for production during a calendar year.

[No. MD/18:2]

C. N. MODAWAL,
Deputy Director (Marks)

MINISTRY OF STEEL, MINES & FUEL

(Department of Iron and Steel)

New Delhi, the 14th September 1960

S.O. 2321.—ESS.COMM/Iron & Steel-15(1) and 27(1)/AM(27).—The following Notification issued by the Iron and Steel Controller under Sub-clause (1) of Clause 15 of the Iron and Steel Control Order 1956 is hereby published for general information:—

"NOTIFICATION

In exercise of the powers conferred by Sub-clause (1) of Clause 15 of the Iron and Steel Control Order, 1956 and with the approval of the Central Government, the Iron and Steel Controller is pleased to notify the following delivery charges for Controlled Stockholders at Ludhiana.

Name of Station	Delivery	Charges
	L/Tons.	M/Ton.
Ludhiana	Rs 4.50	4.43

A. S. BAM, I.C.S.,
Iron and Steel Controller".

[No. F. SC(C)-2(127)/60.]

J. S. BAIJAL, Under Secy.

(Department of Iron and Steel)

New Delhi, the 15th September 1960

S.O. 2322/ESS.COMM./IRON & STEEL-4, 5, & 7.—The following order issued by the Iron and Steel Controller under clauses 4, 5 and 7 of the Iron and Steel (Control) Order, 1956, is hereby published for general information.

"ORDER

In exercise of the powers conferred on me under clauses 4, 5 and 7 of the Iron and Steel (Control) Order, 1956, I, A. S. Bam, Iron and Steel Controller, hereby authorise:—

- (a) any department of the Central or State Government, local authority, or any authority or corporation created by a special statute, to acquire steel of all categories from any producer or controlled stockholder;

(b) any consumer or Stockholder to acquire Plates, Hot Rolled Strips and Black Plain Sheets of thickness 10G to 14G from any producer,

Provided that the steel so acquired shall not be disposed of or exported from any place to which the said Order extends except with the previous permission of the Iron and Steel Controller.

Provided also that a Controlled Stockholder shall dispose of Plates, Hot Rolled Strips or Sheets so acquired only against Quota Certificates or to the authorities indicated in (a) above;

Provided also that a Registered Stockholder shall dispose of Plates, Hot Rolled Strips and Sheets so acquired only against permits issued by the appropriate State Steel Licensing Authorities;

Provided also that no producer shall dispose of steel of any category except in accordance with the conditions contained or incorporated in a special or general written order of the Controller.

A. S. BAM,
Iron and Steel Controller."

[No. F. SC(A)-1(38)/59.]
M. C. MISRA, Under Secy.

(Department of Mines & Fuel)

New Delhi, the 20th September 1960

S.O. 2323.—Whereas by the notification of the Government of India in the Department of Mines and Fuel (Ministry of Steel, Mines and Fuel) S.R.O. 3108 dated the 24th September, 1957, under sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government gave notice of its intention to prospect for coal in the lands in the locality specified in the schedule appended to that notification;

And Whereas by the notification of the Government of India in the Department of Mines and Fuel (Ministry of Steel, Mines and Fuel) S.O. 1866, dated the 19th August, 1959, under sub-section (1) of section 7 of the said Act, notice was issued specifying further period of one year commencing from the 24th September, 1959, as the period within which the Central Government may give notice of its intention to acquire the lands specified therein or any rights in or over such lands;

And whereas the Central Government is satisfied that coal is obtainable in the whole or any part of the said lands;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 1930.01 acres described in the Schedule appended hereto.

The plan of the areas covered by this notification may be inspected in the office of the Deputy Commissioner Hazaribagh, or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the office of the National Coal Development Corporation Limited (Revenue Section), Darbhanga House, Ranchi.

Any person interested in the aforesaid land may, within 30 days of the issue of this notification, file objection to the acquisition of the whole or any part of the lands or of any rights in or over such lands to the Coal Controller, 1, Council House Street, Calcutta.

SCHEDULE

Drawing No. Rev./91/60.

(CHALKARI BLOCK)

(Showing lands where rights to mine, quarry, bore, dig and search for, win, work and carry away minerals are to be acquired).

'Mining Rights'

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks
1.	Jaridih	Nawadih	19	Hazaribagh	518.45	acres Part.
2.	Chalkari	Peterbar	46	Hazaribagh	1411.56	
TOTAL					1930.01	(Approximate)

Plots Nos. to be acquired in Village Jaridih :—

855(Part), 867(Part), 872(Part), 874(Part), 876(Part), 877, 878(Part), 879, 880(Part), 881(Part), 882, 883(Part), 884(Part), 885, 886, 887(Part), 888, 889, 892(Part), 893(Part), 897(Part), 898(Part), 899 to 962, 963(Part), 964, 965(Part), 1107(Part), 1108, 1109, 1110(Part), 1111, 1112, 1113, 1114(Part), 1115 to 1138, 1139(Part), 1142(Part), 1148(Part), 1152(Part), 1153(Part), 1154 to 1167, 1168(Part), 1169 to 1198, 1199(Part), 1200(Part), 1231(Part), 1232(Part), 1233(Part), 1240(Part), 1394(Part), 1396, 1397(Part), 1398, 1399, 1400(Part), 1401 to 1407, 1408(Part), 1409(Part), 1410(Part), 1412(Part), 1427(Part), 1520(Part), 1529(Part), 1530, 1531(Part), 1532(Part), 1533 to 1585, 1586(Part), 1587(Part), 1604(Part), 1605(Part), 1736(Part), 1741(Part), 1792(Part), 1793(Part), 1994(Part), 1795 to 1809, 1810(Part), 1811 to 1878, 1879(Part), 1880(Part), 1881(Part), 1882(Part), 1883 to 1895, 1896(Part), 1897, 1898(Part), 1913(Part), 1914(Part), 1916(Part), 1917, 1918(Part), 1919, 1920, 1921(Part), 1922, to 1958, 1959(Part), 1974(Part), 1975(Part), 1976(Part), 1977(Part), 1978(Part), 1979(Part), 1980 to 2064, 2065(Part), 2066 to 2329.

Plot Nos. to be acquired in village Chalkari :—

1 to 1426, 1431(Part), 1432 to 1434, 1435(Part), 1436 to 1443, 1444(Part), 1445 to 1539, 1540(Part), 1541(Part), 1542(Part), 1543 to 1546, 1547(Part), 1548 to 1558, 1559(Part), 1561(Part), 1562 to 1564, 1565(Part), 1566(Part), 1567(Part), 1599(Part), 1600(Part), 1601 to 1605, 1606(Part), 1615(Part), 1620(Part), 1622(Part), 1623, 1624(Part), 1625(Part), 1626 to 1629, 1630(Part), 1631 to 1633, 1634(Part), 1635(Part), 1636 to 1639, 1640(Part), 1641(Part), 1642 to 2381, 2382(Part), 2383 to 2400, 2401(Part), 2505(Part), 2623(Part), 2624(Part), 2625 to 2630, 2631(Part), 2632(Part), 2707(Part), 2708 to 2999, 3000(Part), 3001, 3002(Part), 3007(Part), 3008 to 3081, 3082(Part), 3083(Part), 3091(Part), 3092(Part), 3093(Part), 3094(Part), 3124(Part), 3120(Part), 3125(Part), 3127(Part), 3128, 3129, 3130, 3131(Part), 3132 to 3134, 3135(Part), 3136(Part), 3138(Part), 3139(Part), 3185(Part), 3186(Part), 3187 to 3189, 3190(Part), 3191, 3192, 3193(Part), 3201(Part), 3202, 3203(Part), 3204, 3205(Part), 3206 to 3238, 3239(Part), 3240 to 3457, 3458(Part), 3459 to 3524, 3525(Part), 3526(Part), 3527, 3528(Part), 3529 to 3549, 3550, 3551(Part), 3552 to 3555, 3556(Part), 3575(Part), 3576(Part), 3577(Part), 3581(Part), 3582(Part), 3583(Part), 3584 to 3586, 3587(Part), 3589(Part), 3598(Part), 3600(Part), 3601, 3602(Part), 3603(Part), 4149(Part), 3604(Part), 4150, 4153, 4154, 4156, 4157, 4155, 4157, 4158, 4159, 4160, 4161, 4162, 4165, 4167, 4168, 4175 and 4176.

Boundary Description

ABCD line passes through Plot Nos :—2065, 1794, 1793, 1810, 1792, 1741, 1736, 1605, 1879, 1882, 1880, 1881, 1896, 1898, , 1978, 1977, 1976, 1974, 1975, 1604, 1959, 1913, 1916, 1912, 1914, 1921, 1586, 1587, 1520, 1629, 1531, 1532, 1412, 1410, 1409, 1408, 1400, 1394, 1395, 1199, 1200, 1231, 1232, 1233, 1168, 1240, 1153, 1152, 1148, 1139, 1142, 1114, 1107, 1110, 965, 963, 897, 898, 893, 892, 887, 878, 874, 876, 872, 880, 881, 883, 884, 867, 855 of village Jaridih

DE line passes along the Common boundary of villages Jaridih and Bermoo.

EFG line passes along the Central line of River Damodar.

GH line passes along the Bokaro Colliery's boundary (Central line of River Damodar).

H, HI, I, J, line passes along the Central line of River Damodar.

JK line passes along the Common boundary of villages Chalkari and Bhujko and along Southern boundary of Plot Nos. 1558 and 1559 of village Chalkari.

KL line passes through Plot Nos. 1559, 1561, 1565, 1566, 1567, 1547, 1542, 1541, 1540, 1444, 1431, 1435, 1427, 1599, 1600, 1606, 1622, 1624, 1620, 1625, 1615, 1630, and 1634 of Chalkari village.

LM line passes through Plot Nos. 1634, 1635, 1640, 1641, 2382 and 3401 of village Chalkari.

MN line passes through Plot Nos. 2401, 2505, 2623, 2624, 2632, 2631, 2707, 3082, 3083, 3091, 3093, 3092, 3007, 3002, 3009, 3239, 3124, 3125, 3127, 3131, 3139, 3138, 3136, 3135, 3203, 3201, 3205, 3193, 3190, 3186, 3185, 3458, 3551, 3556, 3575, 3576, 3604, 3602 and 3603 of village Chalkari.

NO line passes through Plot Nos :—

3603, 3600, 3598, 3576, 3528, 3577, 3526, 3525, 3581, 3582, 3683, 3587, 3589 and 4149 of village Chalkari.

OPA line passes along the Central line of River Damodar.

[No. F. C2-20(9)/60.]

S.O. 2324.—Whereas by the notification of the Government of India in the Department of Mines and Fuel (Ministry of Steel, Mines and Fuel) S.R.O. 3108, dated the 24th September, 1957, under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government gave notice of its intention to prospect for coal in the lands in the locality specified in the Schedule appended to that notification;

And whereas by the notification of the Government of India in the Department of Mines and Fuel (Ministry of Steel, Mines and Fuel) S.O. 1866, dated the 19th August, 1959, under sub-section (1) of section 7 of the said Act, notice was issued specifying further period of one year commencing from the 24th September, 1959, as the period within which the Central Government may give notice of its intention to acquire the lands specified therein or any rights in or over such lands;

And whereas the Central Government is satisfied that coal is obtainable in the whole or any part of the said lands;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the lands measuring 15.60 acres described in the schedule appended hereto.

The plan of the areas covered by this notification may be inspected in the office of the Deputy Commissioner, Hazaribagh, or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the office of the National Coal Development Corporation Limited (Revenue Section), Darbhanga House, Ranchi.

Any person interested in the aforesaid land may, within 30 days of the issue of this notification, file objection to the acquisition of the whole or any part of the land or of any rights in or over such lands to the Coal Controller, 1, Council House Street, Calcutta.

SCHEDULE

(DHORI BLOCK I)
'All Rights'

Drawing No. Rev/89/60 Dated 4-8-1960.

(Showing lands to be acquired)

Sl. No.	Village	Thana	Thana No.	District	Area in acres	Remarks
1.	Dhori	Nawadih	68	Hazaribagh	15.60	Part
TOTAL					15.60 (Approx.)	

Plot No. to be acquired :—3233.

Boundary Description

AB line passes along the Northern boundary of River Damodar.

BC line passes along the Common boundary of Plot Nos. 3233 and 1390.

CD line passes along the Central line of River Damodar.

DA line passes along the Common boundary of villages Dhorī and Phusro.

[No. F. C2-20(9)/60.]

M. BUTT, Dy. Secy.

MINISTRY OF FOOD & AGRICULTURE

(Department of Agriculture)

New Delhi, the 17th September 1960

S.O. 2325.—In supersession of this Ministry's Notification No. F. 14-71/60-A.M. dated 26th August, 1960, published in the Gazette of India dated the 3rd September, 1960 under S.R.O. No. 2155 the following draft of Jute Grading and Marking Rules, 1960 which it is proposed to make, in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) is published, as required by the said Section for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 25th October, 1960.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified, will be considered by the Central Government.

JUTE GRADING AND MARKING RULES, 1960

1. Short title and application.—These Rules may be called the Jute Grading and Marking Rules, 1960.

(2) They shall apply to raw jute of the trade descriptions grown in India and specified in the Schedules to these rules.

2. Grade designations.—Grade designations to indicate the characteristics and quality of jute of specified trade descriptions are set out in column 1 of *Schedules II and III to these rules*.

3. Definition of quality.—The definition of quality indicated by the grade designations in specified in columns 2 to 5 of *Schedules II and III to these rules*.

4. Grade designation mark.—The grade designation mark to be applied to each bale shall consist of a label bearing the design set out in Schedule 1 to these rules specifying the grade designation.

5. Method of marking.—The grade designation mark label shall be securely attached to each bale in a manner approved by the Agricultural Marketing Adviser to the Government of India. In addition to the grade designation mark, the following particulars shall be clearly marked on the label.

(a) Serial number.

(b) Trade description.

(c) Year of harvest.

(d) Date of pressing.

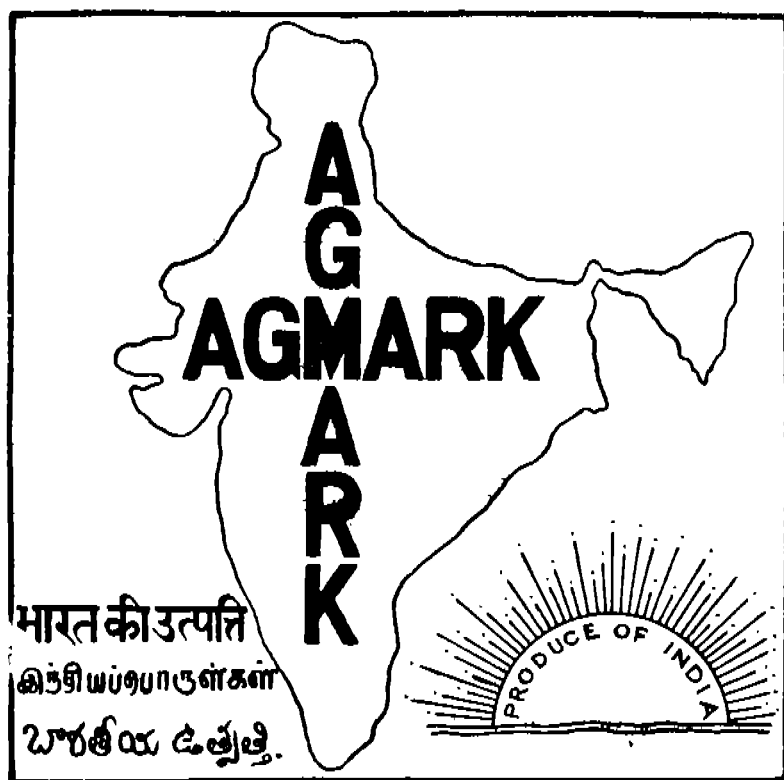
(e) Place of packing and district.

6. Method of packing.—Jute shall be packed in bales of customary weight in a manner approved by the Agricultural Marketing Adviser to the Government of India.

SCHEDULE 1

Grade Designation Mark for Bales of Jute.

(See rule 4)

SCHEDULE II¹

(See rules 2 and 3)

Grade Designations and Definition of quality of Raw Jute (from which roots have not been cut), known commercially as Tossa* Jute (*Corchorus olitorius*).

Grade Designations	Special characteristics			General characteristics
	Colour ^a of fibre	Strength	Maximum percentage of cuttings ^a	
(1)	(2)	(3)	(4)	(5)
Tops	Good	Sound ^a	15	(a) The fibre shall be clean and reasonably dry.
Middles	Medium	Sound ^a	25	(b) The fibre shall be straight morahed. ⁷
Bottoms	Medium to Dark	..	40 ³	(c) The fibre shall be free from <i>hunka</i> or "stick". ⁸
"X" ⁴	Dark	..	..	(d) The fibre shall not be tangled or ravelled except in case of grade designation "X".

*Also known as "Daisee" jute when grown near Calcutta.

SCHEDULE III¹

(See rules 2 and 3)

Grade Designations and Definition of Quality of Raw Jute from which roots have not been cut, known commercially as White Jute (*Corchorus capsularis*).

Grade Designations	Special characteristics			General characteristics
	Colour ² of fibre	Strength	Maximum percentage of cuttings ³	
Tops	Good	Sound ⁴	25	(a) The fibre shall be reasonably clean and dry.
Middles	Medium	Sound ⁴	35	(b) The fibre shall be straight morahed. ⁷ (c) The fibre shall be free from <i>hunka</i> or "stick". ⁸ (d) The fibre shall be tangled or ravelled except in case of grade designation "X".
Bottoms	Medium to Dark	..	50 ⁹	
"X" ⁴	Dark	..	..

¹ Adapted from the Indian Standard specification for grading of raw jute (kutchra assortment IS: 271-1950).

² Colour means the Colour of the district of origin.

³ Includes sacking weft (cuttings and weak jute) quality.

⁴ Any fibre not fit for inclusion in any of the first three grades shall be packed under "X" provided it satisfied other general characteristics mentioned in column (5).

⁵ Fibre that is of reasonably good strength, free from weak ("perished" or "dazed") fibre.

⁶ Hard barky lower ends of jute, commonly called the "roots". The percentage refers to the total weight of the fibre.

⁷ A lightly twisted morah (a hank of jute generally weighing from 5 to 7 lbs., also known as 'head') of jute, turned over in the middle so that loose ends do not protrude through the ends of the bales.

⁸ All jute which is seriously under-retted, and more or less continuously hard or barky.

[F.14-71[60-AM]

V. S. NIGAM Under Secy

(Department of Agriculture)

(L.G.A.R.)

New Delhi, the 12th September 1960

S.O. 2326.—In exercise of the powers conferred by sub-section 5(viii) of section 4 of the Indian Lac Cess Act, 1930, as amended from time to time, the Central Government is pleased to nominate Dr. P. S. Gill, Professor of Physics, Aligarh University, as a Scientist member on the Advisory Board of the Indian Lac Cess Committee for a period of three years.

[No. 3-6/59-Com.III.]

New Delhi, the 15th September 1960

S.O. 2327.—In pursuance of the provisions of Rule 22(4) of the Indian Central Coconut Committee Rules, 1945, the Central Government hereby publish the following audited accounts of Receipts and Expenditure of the Indian Central Coconut Committee for the year 1957-58, together with the Auditor's Report.

Inspection Report on the Accounts and Registers of the Indian Central Coconut Committee, Ernakulam for the period 1st April, 1957 to 31st March, 1958

I: CESS COLLECTIONS

The Collection of cess is made by the Central Excise Department. The actual balance of cess due to the Committee can be known only after the reconciliation of the departmental figures with the treasury figures is completed. This work is stated to be in arrears as shown below.

State.	Period up to which reconciliation has been completed.
Former T. C. State	up to 7/53.
Madras	up to 1/55.
Mysore	up to 4/55.

The Committee has stated that Government of India have been addressed in the matter.

II. LOSS OF RS. 9,065/- ON ACCOUNT OF CONSTRUCTION OF A HOT AIR COPRA KILN AT BADAGARA

In November, 1947, the Indian Central Coconut Committee sanctioned the payment of a sum of Rs. 12,900/- as subsidy to the Malabar District Co-operative Produce Sale Society, Kozhikode for meeting the cost in full of constructing a hot air kiln at Badagara. The amount was accordingly paid to the Society on the condition that the kiln should remain the property of the Committee after the construction. The construction was done by the Society themselves and the total expenditure came to Rs. 15,065/-. The amount of Rs. 2,165/- over and above the original subsidy was paid to the society during the year under audit.

The Committee at its meeting in March, 1956 decided to dispose of the kiln as it was found that the site on which the same was constructed was defective in many respects and a further sum of Rs. 5,000/- had to be spent for making the kiln workable.

The kiln was sold to the above said society itself at a cost of Rs. 6,000/-.

The Committee thus suffered a loss of Rs. 9,065/- which could have been avoided had the fitness of the site been duly examined and inspected before launching the construction of the kiln. The Committee stated that it did not arrange for the examination of the site before the construction, as it had no reason to believe that the society would not select a proper site.

III. GRANT-IN-AID

The certificates of audit in respect of the grants made by the Committee are due from the following states for the periods noted against each.

1. Kerala from 1955-56 onwards.
2. Andhra from 1955-56 onwards.
3. Bombay from 1955-56 onwards.
4. Assam for 1957-58 onwards.
5. Madras for 1957-58 onwards.
6. West Bengal for 1957-58 onwards.

7. Orissa for 1957-58 onwards.

The Committee stated that the Governments were kept reminded.

NOTE.—This report takes into account the replies furnished by the Committee in 6/59. The position regarding parāś I and IV as intimated by the Committee in May, 1960 is incorporated in the Report for 1958-59 sent separately.

Sd/-

27-8-60.

Deputy Accountant General (O.A.D.).

[No. F.7-131/60-Com.I.]

Receipts and Payments Account of the Indian Central Coconut Committee for the year ended 31st March 1958 (Part I)
(Subject to Audit)

RECEIPTS				PAYMENTS			
		Rs.	nP.			Rs.	nP.
To opening balance as on 1-4-1957		2,46,937	41	I. A. Administration			1,21,960
Add security deposit		300	00	B. T. A. of Non-official Members			8,956
							84
Coconut Cess			6,37,487	C. Publicity and Propaganda			33,155
			57				83
<i>Other Receipt</i>				II. <i>Agricultural Research</i>			
(a) Receipts from Publications			7,769	A. Research Stations.			
(b) Miscellaneous Receipts			7,767	(i) C.C.R.S. Kasaragod			
(c) Receipts from			25				
(i) C.C.R.S. Kasaragod							
(a) Farm Produce etc.			60,270				
(b) Receipts from the scheme for the			73				
coconut seed procurement scheme			3,346	(a) Non-Recurring expenditure			22,346
			50	(b) Recurring Expenditure			1,52,158
(ii) C.C.R.S., Kayangulam.				(ii) C.C.R.S. Kayangulam			
(a) Farm Produce etc.			20,218	(a) Non-Recurring Expenditure			11,111
(b) Receipts from the scheme for the			37	(b) Recurring Expenditure			1,55,824
control of leaf disease of coconuts			3,000	(c) Scheme for the control of leaf disease			
(d) Receipts from I.C.A.R. for				of coconut			1,617
I.C.A.R. Schemes				B. <i>Grant-in-aid Schemes</i>			70
				(a) <i>Research schemes</i>			
				Regional Coconut Research Stations.			
				1. Travancore		26,000	00
				2. Andhra		4,550	00
				3. Bombay		11,660	00
							42,210
				(b) <i>Coconut nurseries</i>			00
				1. Madras Comprehensive		675	00
				2. Orissa Do.		1,950	00
				3. West Bengal, Chandernagore		4,240	00
				4. Schemes for the expansion of coco-			
				nut nurseries in T.C. State		1,675	00

5. Olukkara	1,155.00	
6. Northern Part of West Bengal	2,120.00	
7. Wadakkancherry	2,080.00	
8. Nileswhar & Tikkoti Kerala	3,530.00	17,425.00

Miscellaneous

1. Scheme for the establishment of Zonal Parasite Breeding Station for biological control of <i>Nephantis serinopa</i>		
(i) Kasaragod (Madras State)	3,317.00	
(ii) Kasaragod (Kerala State)	383.00	3,700.00
(iii) Travancore-Cochin		3,000.00
2. Investigation of band disease of coconut palms in Bombay State	7,633.00	14,333.00
III. Marketing Schemes Badagara Kiln . . . . .	..	2,165.00
IV. Repayment of Government of India Loan	..	24.14
Refund of security Deposit . . . . .	..	300.00
Closing balance with State Bank of India Cochin	3,95,236.16	
Imprest I.C.Co.C.	750.00	
Imprest C.C.R.S. Kasaragod	1,500.00	
Imprest C.C.R.S. Kayangulam	1,500.00	
Advances Recoverable Account		
Indian Central Coconut Committee	1,258.00	
C.C.R.S., Kasaragod	1,111.00	
C.C.R.S., Kayangulam	298.00	
Caution Money Deposit	50.00	
Advances for purchase of conveyance	353.00	
Festival Advances, Indian Central Coconut Committee	130.00	
Festival Advances, C.C.R.S. Kasaragod	11.00	
Festival Advances, C.C.R.S., Kayangulam	266.00	
Advances to Coconut Seed Procurement Scheme	3,493.00	
Five Year Plan Account transfer	153.36	4,06,109.52

9,89,698.47

9,89,698.47

Sd/- P. J. GREGORY
Secretary,
Indian Central Coconut Committee, Ernakulam.

Verified and found correct subject to the observation in the Inspection Report.
Sd/-
Accountant, Assistant Accounts Officer,
Indian Central Coconut Committee, Ernakulam.

Receipts and Payments Account of the Indian Central Coconut Committee for the year ended March 1958 (Part II)
(Subject to Audit)

RECEIPTS		PAYMENTS	
	Rs. nP.	Rs. nP.	Rs. nP.
Opening balance	..	87,911·62	I. Administration.
Contribution from the Central Government towards schemes for the development of coconut under the Second Five Year Plan	2,79,166·00	..	II. Agricultural Research
Less cost of Revenue Stamp deducted by the State Bank of India, Cochin	0·06		A. Research Stations.
			(i) C.C.R.S., Kasaragod
			(a) Non-recurring expenditure
			(b) Recurring expenditure
			(ii) C.C.R.S. Kayangulam
			(a) Non-recurring expenditure
			(b) Recurring Expenditure
			B. Grant-in-aid Schemes
			Regional Coconut Research Stations in :—
Less Amount refunded to the Government of India	2,79,165·94		1. Orissa
Outstanding liabilities :—	1,67,077·62	1,12,088·32	2. Mysore
Amount transferred from the Personal Deposit account of the Joint Director, C.C.R.S., Kasaragod.	5·50	..	III. Marketing and Economics Statistical Surveys
C.C.R.S., Kayangulam, Rent of building	4·19	9·69	IV. Scheme for the control of coconut pests in Kerala Closing balance with the State Bank of India, Cochin
			Advances Recoverable A/c. Indian Central Coconut Committee
			C.C.R.S., Kasaragod
			C.C.R.S. Kayangulam
TOTAL		2,00,009·63	TOTAL

Verified and found correct subject to the observations in the Inspection Report.

Sd/- P.J. GREGORY
Secretary,
Indian Central Coconut Committee, Ernakulam.

Sd/-
Accountant,
Indian Central Coconut Committee, Ernakulam.

Sd/-
Assistant Accounts Officer.
22-8-60

Receipts and Payments Account of the Indian Central Coconut Committee Provident Fund for the year ended 31st March 1958.
(Subject to Audit).⁶

RECEIPTS	Rs. nP.	Rs. nP.	PAYMENTS	Rs. nP.
To opening balance as on 1-4-1957 Post Office Savings Bank Account		8,248.50	By Subscribers account advance to subscribers	6,863.00
To Subscription account subscription received	26,485.81		By Contribution Account Refund to K. Babu	258.00
To Refund of advances with interest	8,134.62	34,620.43	By Investments	
			By Post Office National Savings Certificates	7,600.00
To Contribution Account Contribution received		13,484.00	By Closing Balance in the Post Office Savings Bank Account.	43,336.69
To Special contribution by the Committee to the Subscribers		1,724.01	By Cash in hand (with the Accountant)	121.00
To Interest on Post Office Savings Bank Account for the year 1956-57		101.75		
TOTAL		58,178.69	TOTAL	58,178.69

Income and Expenditure Account.

EXPENDITURE		INCOME	
To Interest credited to subscription account Contribution Account	4,601.00	By Special contribution from the Committee for payment of Interest	1,724.01
To Excess Interest on Post Office Savings Bank account taken credit in 1956-57	2,377.00	By Interest on Post Office National Savings Certificates	5,007.50
To Excess Special contribution credited to Subscribers for payment of Interest	1.69	By Interest on Post Office Savings Bank Account	248.20
	0.02		
TOTAL	6,979.71	TOTAL	6,979.71

Verified and found correct subject to the observation in the Inspection Report.

Sd/- P. J. GREGORY Secretary,
Indian Central Coconut Committee
Ernakulam.

Sd/- Accountant,
Indian Central Coconut Committee,
Ernakulam.

Sd/-
Assistant Accounts Officer.
22/8

Balance Sheet as on 31st March 1958.

LIABILITIES				ASSETS			
(1)				(2)			
	Rs.	nP.	Rs. nP.		Rs. nP.	Rs. nP.	
Subscription account :				Post Office National Savings Certificates :			
As per last Balance Sheet	1,07,890	19		As per last Balance Sheet	1,49,750	00	
Subscription received during the year	26,485	81		Investment during the year	7,600	00	1,57,350
Refund of advance with interest	8,134	62					
				Balance in Post Office Savings Bank Account			43,336
Interest credited during the year	4,601	00		Cash in hand (with the Accountant).			121
	1,47,511	62					
Less Advance to subscribers	6,863	00	1,40,248	Interest accrued on Post Office Savings Bank account for 1957-58			248
Contribution account :				Interest accrued on Post Office National Savings certificates upto 31-3-1958			18,632
As per last balance sheet	63,836	75					
Contribution received during the year	13,484	00					
Interest credited during the year	2,377	00					
	79,697	75					
Less Refund	258	00	79,439				
Excess Special contribution credited during this year for payment of interest			0				
			0				
TOTAL			2,19,688	TOTAL			2,19,688

Verified and found correct subject to the observation in the Inspection Report.

Sd/- P. J. GREGORY, Secretary,
Indian Central Coconut Committee, Ernakulam

Sd/-
Accountant,
I.C.Co.C., Ernakulam.

Sd/-
Assistant Accounts Officer.

[No. F. 7-131/60-Com. I.]
AJUDHIA PRASADA, Under Secretary.

MINISTRY OF HEALTH

New Delhi, the 13th September 1960

S.O. 2328.—The Governments of Gujarat and Maharashtra having nominated Shri B. V. Patel and Shri M. K. Rangnekar respectively to represent them on the Drugs Consultative Committee, the Central Government in pursuance of section 7 of the Drugs Act, 1940 (23 of 1940), hereby makes the following further amendments in the notification of the Government of India in the Ministry of Health No. F. 1-3/47-D(II), dated the 13th September, 1948, constituting the Drugs Consultative Committee, namely:—

In the said notification, under the heading 'Nominated by State Governments'—

(a) for entry 1, the following entry shall be substituted, namely:—

"1. Shri M. K. Rangnekar, Director, Drugs Control Administration, Maharashtra State, Bombay."

(b) after entry 15, the following entry shall be added, namely:—

"16. Shri B. V. Patel, Director, Drugs Control Administration, Gujarat State, New Civil Hospital, Ahmedabad-16."

[No. F. 4-5/60-D.]

M. K. KUTTY, Dy. Secy.

MINISTRY OF SCIENTIFIC RESEARCH & CULTURAL AFFAIRS

New Delhi, the 15th September 1960

S.O. 2329.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that the undermentioned instrument may be executed on his behalf by the Joint Educational Adviser (Technical) and Ex-officio Joint Secretary to the Government of India, Ministry of Scientific Research and Cultural Affairs, namely:—

"Deed of Assignment for Patent"

[No. F. 324(138)/56-T.1.]

A. B. CHANDIRAMANI,
Deputy Educational Adviser
(Technical).

MINISTRY OF WORKS, HOUSING AND SUPPLY

New Delhi, the 19th September 1960

S.O. 2330.—In exercise of the powers conferred by clause (1) of Article 299 of the Constitution, the President hereby directs that the undermentioned instruments may be executed on his behalf by the Chief Engineer or the Additional Chief Engineer (I), Central Public Works Department, namely:—

"Contracts and agreements with sculptors, artists or any other persons for the decoration of the Vigyan Bhavan, New Delhi."

[No. F. W-5(3)/59.]

S. CHAUDHURI, Dy. Secy.

MINISTRY OF IRRIGATION AND POWER

New Delhi, the 13th September 1960

S.O. 2331.—In exercise of the powers conferred by sub-rule (1) of rule 5 of the Indian Electricity Rules, 1956, and in partial modification of this Ministry's notification No. EL-II-361(4)/57, dated the 26th July, 1957, the Central Government appoints Shri S. K. Aggarwal, an Assistant Director in the Central Water and Power Commission (Power Wing) as an officer to assist the Electrical

Inspector for the Union Territories of Himachal Pradesh, Manipur, Tripura, and the Andaman and Nicobar Islands and the State of Pondicherry, in place of Shri K. C. Krishnamurti. The appointment will have retrospective effect from the 21st August, 1957.

[No. EL-II-361(4)/57.]

N. S. VASANT,
Officer on Special Duty.

MINISTRY OF REHABILITATION
(Office of the Chief Settlement Commissioner)

New Delhi, the 8th September 1960

S.O. 2332.—Whereas the Central Government, is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Madhya Pradesh for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the evacuee properties specified in the Schedule hereto annexed.

THE SCHEDULE

Sl. No.	Particulars of the Property	Name of the town and locality/village in which the property is situated	Name of the Evacuee	Remarks
1	2	3	4	5
1.	Number of fields are 76/093 and 85/2 total area 2.04 acres.	Mouza Bahdan, Serial Number 46, Tehsil and Distt. Jabalpur.	Abdul Shakoor Khan son of Mohammad Ismile Khan and Musmat Amna Bi widow of Ibrahim.	
2.	Khasra Number 14/1 Area 1.49 acres.	P. C. 33, Serial Number 350, Village Sunchri, Tehsil Katni, Distt. Jabalpur.	Sheikh Sharif son of Sheikh Azim of Village Sunchri.	
3.	Khasra Area Number 1.49 acres 14/1 5.74 „ 16 3.01 „ 17 5.83 „ 18	Agricultural field in village Bhatagwan, Tehsil Katni, Distt. Jabalpur.	Sheikh Sharif son of Sheikh Azim of village Sunchri.	
4.	Khasra Area 0.94 acres. No. 30 1.38 „ 48/2	Agricultural field in village Mohania, Sl. No. 499 Teh. Katni, Distt. Jabalpur.	Sheikh Sharif son of Sheikh Azim of village Sunchri.	

[No. 4(13)/Policy-II/58.]

New Delhi, the 15th September 1960

S.O. 2333.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed, in the State of Bihar for a public purpose, being a purpose connected with the Relief and Rehabilitation of Displaced Persons including payment of Compensation to such persons;

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule.

THE SCHEDULE

Serial No.	Particulars of the E.P. Agricultural land			Name of the locality (Village)	Name of the Evacuee
	Kh. No.	Plot No.	Area A. D.		
1	2	3	4	5	6
1	3	210	0 33	Vill. Kusi, P.S. Aurangabad, Distt. Gaya.	Bihi Uma Sakina Hussain Immiam. W/o
		242	0 33		
		243	0 33		
		245	0 72		
		246	0 50		
		247	0 79		
		250	4 08		
		253	5 93		
		256	4 17		
		281	9 54		
		303	0 30		
		394	0 65		
		419	0 46		
		421	2 16		
		520	0 47		
		1278	1 05		
		794	0 12		
		798	0 28		
		801	4 16		
		803	3 81		
		806	0 11		
		1214	0 14		
		1224	1 47		
		668	0 34		
		675	0 27		
		677	0 33		
		797	0 60		
		799	0 15		
		804	0 82		
		805	0 58		
		807	16 47		
		917	0 31		
		921	0 15		
		1211	0 78		
		1213	6 66		
		1250	0 19		
		1705	1 11		
		1707	1 81		
		1708	1 21		
		1710	5 91		
		1712	19 66		
		1715	1 72		
		1716	5 86		
		1717	1 86		
		1720	1 43		
		1723	1 59		
		1931	10 33		
		1934	5 64		
		1937	11 31		
		1940	10 03		
		1146	0 07		
		263	0 08		
		TOTAL	151 72		
38		1371	0 51		

1	2	3	4	5	6
	77	913 1296	0 10 0 15		
	TOTAL		0 25		
	78	537 551 840	0 15 0 23 0 17		
	TOTAL		0 55		
	67	1042	0 09		
	68	1368	0 32		
	68	1382	0 20		
	57	1221 623 741 753 754 758	0 22 1 36 0 32 0 21 0 04 0 12		
	TOTAL		2 27		
	8	749 783	0 27 0 16		
	TOTAL		0 43		
	7	1317 1320 1323 1331 1684 1685	0 08 0 05 0 10 0 39 0 57 0 12		
			1 31		
	134	1722	0 90		
	5	1244 1326	0 35 0 23		
			0 58		
	52	920 1237 275	0 32 0 68 0 03		
			1 03		
	53	1352 1236 1264	0 59 0 60 0 33		
			1 52		
	54	276 354 356 379 403 404 517 548 609 629	2 04 0 22 0 40 0 29 0 62 0 53 0 26 0 13 0 09 0 39		

1	2	3	4	5	6
		650	0 07		
		658	0 73		
		659	0 10		
54		662	0 77		
		663	0 16		
		728	1 09		
		747	0 04		
		750	0 12		
		752	0 36		
		772	0 11		
		785	0 21		
		1220	0 38		
		1223	0 24		
		1227	0 15		
		1234	0 06		
	TOTAL		9 56		
92		1262	0 28		
		1345	0 16		
		1351	0 39		
		1357	0 93		
	TOTAL		1 76		
58		1254	1 21		
		1258	0 54		
		1266	1 65		
		1301	1 20		
		1312	0 09		
		1660	1 04		
		1692	0 32		
		1300 [†]	0 06		
	TOTAL [*]		6 11		
133		628	0 88		
		631	0 42		
		1932	0 41		
		1933	1 18		
		1935	2 84		
		1939	0 49		
		1714	0 19		
		1709	1 22		
		1713	0 88		
		300	1 28		
		531	0 34		
		692	2 70		
		433	2 90		
		262	0 05		
		244	0 54		
		248	2 78		
		254	0 46		
		1721	12 [†] 05		
	TOTAL		31 61		

Grand Total 210.82 acres.

[No. 6(3)/Policy-II/60].

KANWAR BAHADUR,
Settlement Commissioner &
Ex-Officio Dy. Secy.

MINISTRY OF LABOUR & EMPLOYMENT*New Delhi, the 14th September 1960*

S.O. 2334.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948); the Central Government hereby makes the following further amendment in the Madras Dock Workers (Regulation of Employment) Scheme, 1956, the same having been previously published as required by the said sub-section, namely:—

Amendment

1. This Scheme may be called the Madras Dock Workers (Regulation of Employment) Amendment Scheme, 1960.

2. In the Madras Dock Workers (Regulation of Employment) Scheme, 1956, in sub-clause (1) of clause 52, in the second sentence, the following words shall be added at the end, namely:—

“and the amount payable by way of such levy shall not be less than such amount as the Board may fix as the minimum payable by every registered employer.”

[No. Fac. 174(8)/59.]

S.O. 2335.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following further amendment in the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, the same having been previously published as required by the said sub-section, namely:—

Amendment

1. This Scheme may be called the Calcutta Dock Workers (Regulation of Employment) Amendment Scheme, 1960.

2. In the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, in sub-clause (1) of clause 52, in the second sentence, the following words shall be added at the end, namely:—

“and the amount payable by way of such levy shall not be less than such amount as the Board may fix as the minimum payable by every registered employer.”

[No. Fac. 174(8)/59.]

New Delhi, the 19th September 1960

S.O. 2336/PW/Procedure/Rules/Am.2.—In exercise of the powers conferred by sub-section (1) of section 26, read with section 24, of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby makes the following amendments to the Payment of Wages (Procedure) Rules, 1937, in their application to railways, mines and oil-fields, the same having been previously published as required by sub-section (5) of the said section 26, namely:—

1. These rules may be called the Payment of Wages (Procedure) Amendment Rules, 1960.

2. In the Payment of Wages (Procedure) Rules, 1937—

(i) in Form B—

(i) in the Form of Group Application in item 1, for the words “The applicants whose names” the words “the applicants whose names and permanent addresses” shall be substituted; and

(ii) for the Schedule, the following Schedule shall be substituted, namely:—

SCHEDULE

S. No.	Name of applicant	Permanent Address
1	2	3

(2) in Form C, in item 1, for the words, brackets and letter "person(s)" the words "persons whose names and permanent addresses are given below" shall be substituted.

[No. Fac. 539(2)/60.]

R. C. SAKSENA, Under Secy.

New Delhi, the 14th September 1960

S.O. 2337.—Whereas immediately before the Employees' Provident Funds Act, 1952 (19 of 1952), became applicable with effect from the 31st July, 1956, to the factories known as (1) Refractory and Ceramic Works, Burn and Company Limited, Raniganj No. 2 Works, Burdwan, (2) Refractory and Ceramic Works, Burn and Company Limited, Lalkoti Works, Burdwan, and (3) Refractory and Ceramic Works, Burn and Company Limited, Durgapur Works, Burdwan, there was in existence a provident fund common to the employees employed in the factories, to which the said Act applies, and the employees in their other establishment known as Refractory and Ceramic Works, Burn and Company Limited, Ondal Works, Burdwan;

Now, therefore, in exercise of the powers conferred by section 3 of the said Act, the Central Government hereby directs that the provisions of that Act shall also apply to the said other establishment.

[No. PF.II.7(45)/59.]

New Delhi, the 17th September 1960

S.O. 2338.—In exercise of the powers conferred by section 8 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947), read with rule 3 of the Coal Mines Labour Welfare Fund Rules, 1949, the Central Government hereby appoints Shri B. P. Jha as a member of the Coal Mines Labour Welfare Fund Advisory Committee constituted in the notification of the Government of India in the Ministry of Labour and Employment No. S.R.O. 3260, dated the 8th October 1957 vice Shri Deven Sen resigned, and makes the following further amendment in the said notification, namely:—

For the entry "16." Deven Sen", the entry "16. Shri B. P. Jha" shall be substituted.

[No. 3(13)/60-MIL.]

S.O. 2339.—In exercise of the powers conferred by section 7 of the Coal Mines Provident Fund and Bonus schemes Act, 1948 (46 of 1948) the Central Government hereby makes the following further amendments in the Coal Mines Bonus Scheme, published with the notification of the Government of India in the late Ministry of Labour No. PF. 16(1)/48, dated the 3rd July, 1948, namely:—

1. This Scheme may be called the Coal Mines Bonus (Amendment) Scheme, 1960.

2. In the Coal Mines Bonus Scheme, hereinafter referred to as the said Scheme, in paragraph 11—

(i) after sub-paragraph (3), the following sub-paragraph shall be inserted, namely:—

"(3A) Every employer shall from the first of October, 1960, maintain a bonus register in Form X in respect of all employees. Particulars of attendance and basic earnings of the employees shall be posted in the bonus register within a week of payment of wages, in respect of the wage period to which they relate;

Provided that where the Chief Labour Commissioner (Central) is of the opinion that the bonus register or records maintained by an employer immediately before the aforesaid date will serve the purpose, he may permit such employer to continue to maintain such register or records in lieu of the register to be maintained under this sub-paragraph";

(ii) in sub-paragraph (4), for the word, brackets and figures "(1) and (3)", the word, letter, brackets and figures "(1), (3) and (3A)" shall be substituted.

In the said Scheme, after Form IX, the following Form shall be added, namely:—

FORM X
BONUS REGISTER

[See paragraph 11 (3A)]

Name of Employee Colliery : Year 19 Date of appointment Rate of pay from
 Father's or Husband's name Nearest home going Rly. Station from
 Home Address from
 Designation from
 Ticket No. from
 C.M.P. R. A/c. No.
 Category of employment

Attendance during the previous year.

1st Quarter		2nd Quarter		3rd Quarter		4th Quarter	
Week/Month ending		Week/Month ending		Week/Month ending		Week/Month ending	
Basic Wages—Monthly/Weekly.		Basic Wages—Monthly/Weekly.		Basic Wages—Monthly/Weekly.		Basic Wages—Monthly/Weekly.	
Actual Attendance		Actual Attendance		Actual Attendance		Actual Attendance	
Leave with pay		Leave with pay		Leave with pay		Leave with pay	
Sick Leave		Sick leave		Sick Leave		Sick Leave	
Forced Idleness/Days of Lay-off.		Forced Idleness /Days of Lay-off		Forced Idleness/Days of Lay-off.		Forced Idleness/Days of Lay-off.	
Absence due to illegal lockout		ABSENCE due to illegal lockout		Absence due to illegal lockout.		Absence due to illegal lockout	
Compulsory attendance in Court of Law.		Compulsory attendance in Court of Law		Compulsory attendance in Court of law.		Compulsory attendance in Court of Law.	
Maternity Leave		Maternity leave		Maternity Leave		Maternity Leave	
I. O. D.		I.O.D.		I.O.D.		I.O.D.	
Closed Holidays.		Closed Holidays		Closed Holidays		Closed Holidays	
Total Basic earnings for the purpose of Bonus		Total Basic earning for purpose of Bonus		Total Basic earning for the purpose of Bonus		Total basic earning for the purpose of Bonus	
Week/Month ending		Week/Month ending		Week/Month ending		Week/Month ending	
Basic Wages—Monthly/Weekly.		Basic Wages—Monthly/Weekly.		Basic Wages—Monthly/Weekly.		Basic Wages—Monthly/Weekly.	
Actual Attendance		Actual Attendance		Actual Attendance		Actual Attendance	
Leave with pay		Leave with pay		Leave with pay		Leave with pay	
Sick Leave		Sick leave		Sick Leave		Sick Leave	
Forced Idleness/Days of Lay-off.		Forced Idleness /Days of Lay-off		Forced Idleness/Days of Lay-off.		Forced Idleness/Days of Lay-off.	
Absence due to illegal lockout		ABSENCE due to illegal lockout		Absence due to illegal lockout.		Absence due to illegal lockout	
Compulsory attendance in Court of Law.		Compulsory attendance in Court of Law		Compulsory attendance in Court of law.		Compulsory attendance in Court of Law.	
Maternity Leave		Maternity leave		Maternity Leave		Maternity Leave	
I. O. D.		I.O.D.		I.O.D.		I.O.D.	
Closed Holidays.		Closed Holidays		Closed Holidays		Closed Holidays	
Total Basic earnings for the purpose of Bonus		Total Basic earning for purpose of Bonus		Total Basic earning for the purpose of Bonus		Total basic earning for the purpose of Bonus	
Total		Total		Total		Total	

1. Actual Attendance		Actual Attendance	
2. Bonus purpose Leave <i>vide</i> Cl. 6 (1) of the Bonus Scheme.		Bonus purpose leave <i>vide</i> Cl. 6(1) of the Bonus Scheme.	
3. Forced Idleness 70% or 85% of M.L. or I.O.D. <i>vide</i> Cl. 6(2) of the Bonus Scheme.		Forced Idleness 70% or 85% of M.L. or I.O.D. <i>vide</i> Cl. 6(2) of the Bonus Scheme.	
4. Closed Holidays <i>vide</i> Cl. 6(3) of the Bonus Scheme		Closed Holidays <i>vide</i> Cl. 6(3) of the Bonus Scheme.	
5. Total Attendance for the purpose of Bonus		Total Attendance for the purpose of Bonus.	
6. Amount of Bonus paid		Amount of Bonus paid	
Signature or L.T.I. of Employee.....	Signature or L.T.I. of employee....	Signature or L.T.I. of employee.....	Signature or L.T.I. of employee.....
Date of Payment	Date of payment	Date of payment.....	Date of payment.....
Signature of witnessing official of the Colliery.....	Signature of the witnessing official of the colliery.....	Signature of the witnessing official of the colliery.....	Signature of the witnessing official of the colliery.....
Designation.....	Designation	Designation	Designation.....

[3 (99) /58-PF. I.]

New Delhi, the 19th September 1960

S.O. 2340.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints Shri Vidya Chandra Varma, an officer of the Office of the Chief Inspector of Mines, to be an Inspector of Mines subordinate to the Chief Inspector.

[No. MI-8(88)-58.]

A. P. VEERA RAGHAVAN, Under Secy.

New Delhi, the 19th September 1960

S.O. 2341.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Religara Colliery, Post Office Argada and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 32 OF 1960

PARTIES:

Employers in relation to the Religara Colliery, P.O. Argada

AND

Their workmen.

PRESENT:

Shri G. Palit, M.A.B.L., Chairman, Central Govt. Industrial Tribunal, Dhanbad.

APPEARANCES:

Shri S. S. Mukherjea, Advocate, with Shri L. J. Pathak, Chief Personnel Officer—for the Employers.

Shri S. K. Mukherjee, Advocate, with Shri P. B. D. Choudhury, General Secretary, Colliery Staff Association—for the workmen.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 7th September 1960

AWARD

The Government of India, Ministry of Labour & Employment, by its Order No. 2/88/60-LR.II dated the 6th July 1960 made in pursuance of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), referred the aforesaid dispute for adjudication to the Central Government Industrial Tribunal, Dhanbad, presided over by me, concerning the matters as per schedule below:—

"Having regard to the nature of duties performed by the Register Keepers and the Attendance Clerks of Religara Colliery, whether the demand of the Register Keepers who are in Grade III at present, to be placed in Grade II is justified and if so, from what date should they be so placed?"

2. I do not think it worthwhile to go into the facts which have led up to the present dispute because the dispute in question has been settled out of court by the parties when it was taken up for hearing. They have filed a joint petition of compromise. I have gone through the said compromise and find that the terms are fair and reasonable. So I accept the said petition of compromise as a part of my present award and dispose of the dispute according to it. The terms are embodied in the appendix.

G. PALIT,

Chairman,
Central Govt. Industrial Tribunal,
Dhanbad.

Dhanbad,

7-9-1960

BEFORE THE CHAIRMAN, CENTRAL GOVT'S. INDUSTRIAL TRIBUNAL,
DHANBAD

REFERENCE No. 32 of 1960

PARTIES:

Employers in relation to Religara Colliery

AND

Their workmen.

The humble petition on behalf of the parties abovenamed.

Most respectfully sheweth:—

1. That the parties abovenamed have compromised the dispute on the terms mentioned hereinbelow:

2. That two workmen, namely Shri Purshottam Singh and Shri Kalyan Kumar Choudhury, shall be placed in clerical Grade II with effect from 1st June 1960 and their basic pay shall be fixed at Rs. 57/- (Rupees Fifty-seven) in the scale of Rs. 48—3—57—4—93/-.

3. That the parties shall bear their own respective costs.

It is, therefore, most humbly prayed that the above reference may be disposed of on the terms aforesaid and an award passed accordingly.

For the Workmen:

P. B. D. CHOUDHURY.

General Secy.

Colliery Staff Assn.

S. K. MUKHERJEE.

Advocate.

For the Employer:

L. J. PATHAK,

Chief Personnel Officer.

S. S. MUKHERJEE,

Advocate.

[No. 2/88/60-LRII.]

ORDERS

New Delhi, the 14th September 1960

S O. 2342.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Kotma Colliery of the Associated Cement Companies Limited, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay, constituted under section 7A of the said Act.

SCHEDULE

(i) Whether the management of Kotma Colliery was justified in suspending Sarva Shri M. K. Mahaskar and R. N. Nair and subsequently dismissing them?

(ii) If not, what relief the workers are entitled to?

[No. 2/26/60-LRII.]

New Delhi, the 15th September 1960

S.O. 2343.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Manho China Clay Mine, P.O. Charhu, Lohardaga, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Having regard to the duties performed by the workmen in the Manho China Clay Mine, Lohardaga, what should be the designation and the all inclusive rates of wages payable to each category of workmen employed therein and from what date after the 11th January, 1960.

[No. 23/6/60-LRII.]

S.O. 2344.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Charhu China Clay Mine, P.O. Charhu, Lohardaga, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Having regard to the duties performed by the workmen in the Charhu China Clay Mine, Lohardaga, what should be the designation and the all inclusive rates of wages payable to each category of workmen employed therein and from which date after the 11th January, 1960?

[No. 23/7/60-LRII.]

New Delhi, the 17th September 1960

S.O. 2345.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Hutti Gold Mines Co. Ltd., Hutti P. O. Raichur, Deccan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay, constituted under section 7A of the said Act.

SCHEDULE.

1. Whether the workmen of the Hutti Gold Mines Co., Ltd., Hutti, P.O. Raichur Deccan are entitled to:—

- (a) revision of wages;
- (b) grant of bonus;
- (c) grant of gratuity;
- (d) increase in number of full holidays with pay from 5 to 7; and
- (e) revision of dearness allowance.

with effect from 10th December, 1959?

2. Whether the undermentioned employees dismissed by the management of the said Hutti Gold Mines should be reinstated in service?

1. Sri Mahadevan	T. No. 457
2. Sri Kannan	T. No. 435
3. Sri Chinnaraj	T. No. 232
4. Sri Ponnurangan	T. No. 607
5. Sri Selvan	T. No. 603
6. Sri Varadaraj	T. No. 686
7. Sri Arumugham	T. No. 284
8. Sri Syed Patha	T. No. 555
9. Sri Perumal	T. No. 73
10. Sri Mallappa	T. No. 327
11. Sri Santhosam	T. No. 433

[No. 23/25/60-LRII.]

S. N. TULSIANI, Under Secy.

New Delhi, the 20th September 1960

S.O. 2346.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 25th September, 1960, as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapter V and Chapter VI [except sub-section (1) of section 76 and sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Madhya Pradesh namely:—

- (i) ~~The~~ areas within the municipal limits of Rajnandgaon;
- (ii) the areas within the limits of revenue village Mohara, tehsil Rajnandgaon, district Durg; and
- (iii) the areas within the limits of Railway Yard, Rajnandgaon.

[No. F. HI-13(12)/60.]

BALWANT SINGH, Under Secy.

ERRATUM

In notification No. F. 17/2/60-MI, dated 27th August, 1960, of the Ministry of Labour and Employment, published in Gazette of India Part II—Section 3(ii), dated 3rd September, 1960, as S.O. 2172, the following correction is to be made:—

Page 2581, 4th line of the notification:—

for "26th May, 1960,"

read "26th May, 1959,"

